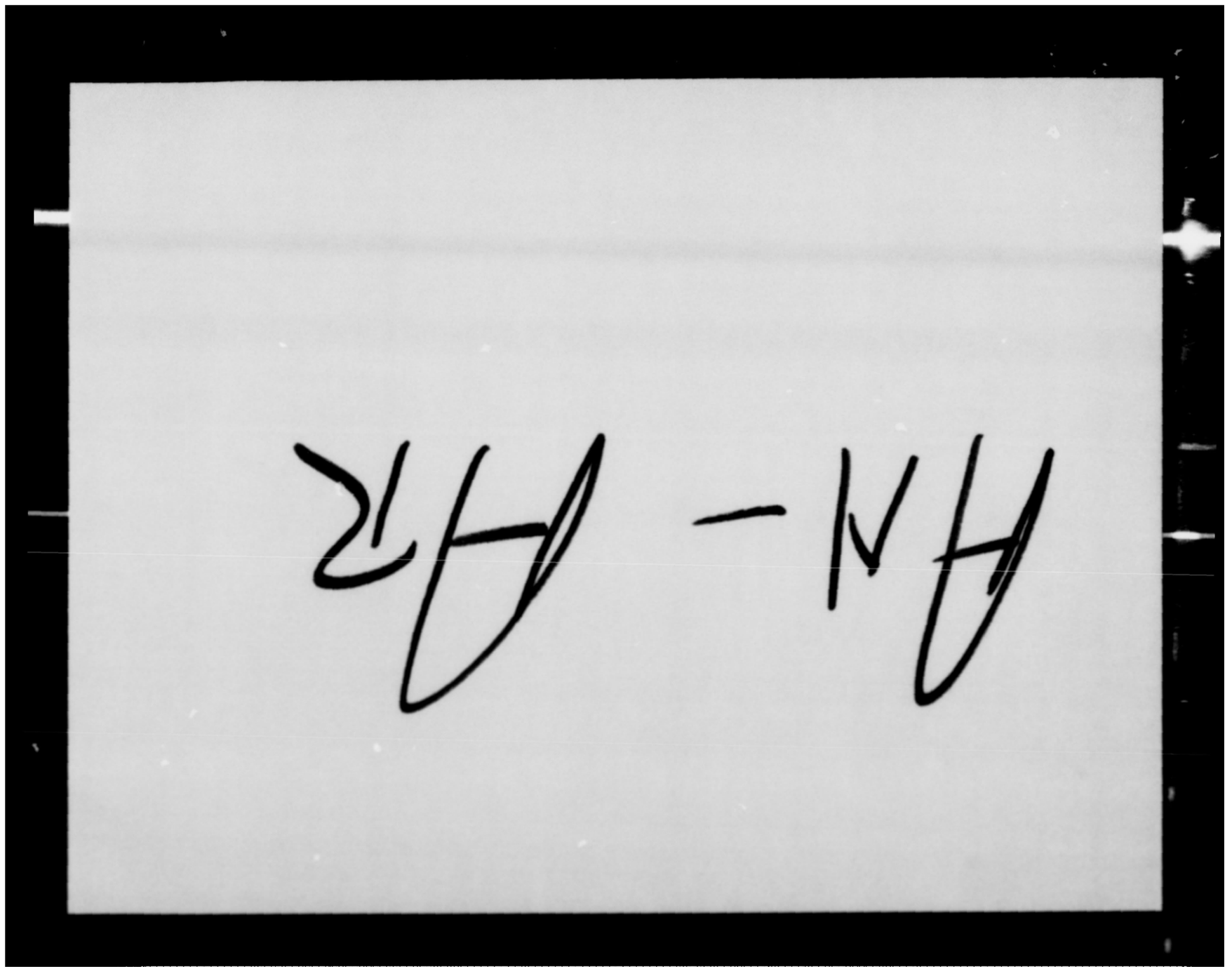

AN - A12

ADMINISTRATIVE FILE

Anastase, Tsantalis

X

X

Septembar 11, 1959

Mr. Tsantalis Anastase
Poste Restente Centrale
Athanas, Greece

Dear Mr. Aeastase:

Thaak you for your very hind lettar. It was very thoughtful of you to take time out to write me and I appraciate it very much.

I assura you that if you are at any time able to come to the Unitad Statas, I will be happy to meet you.

Thanking you again, I am

Fraternally yours,

James R. Hoffa
Ganeral President

JRH/yk

Dear Mr. Hoffa;

Just let me introduce myself. My name is Tsantalis Anastase (Greek). I was born in Couffle. It has been almost a year since I arrived in Greece.

Sir, I read in the Greek newspaper (Ta Mea), an article referring of you as the President of the truck unions. I want you to know that I admire your ability, your activity. I consider you as the founder of these organizations, you are wonderful.

I congratulate you, Mr. Hoffa, for your sentimentality and consciousness toward the workingman.

I wish I could shake hands with you as the ex-champ, Joe Louis did in Court. But unfortunately I am poor and sick, therefore, I cannot afford to travel.

I hope I win the sweepstake then my greatest pleasure would be to come out to see you and make your acquaintance. Before I finish this letter, I would like you to accept my best regards and I beg you to write me a few words if it is not asking too much from you.

Tsantalis Anastase

Dear Mr. Hoffa.

First let me introduce myself: my name is Constantinos Anastase (Greek). I was born in Corfu. It has been almost a year since I arrived in Greece.

Sir, I read in the Greek newspaper «TA MEA», an article referring of you as the president of the truck Unions. I want you to know that I admire your ability, your activity. I consider you as the founder of these organisations, you are wonderful.

I congratulate you, Mr Hoffa for your sentiments and consciousness toward the working man.

I wish I could shake hands with you as the ex Champ. "Joe Louis" did in court. But unfortunately I am poor and sick, therefore I cannot afford to travel.

I hope I win the sweepstake then my greatest pleasure would be to come and see you and make your acquaintance

Before I finish this letter, I
would like you to accept my
best regards and I beg of you
to write me a few words
if it is not asking too much
from you.

Tsantelis Anastase

Cher Mr. Hoffa,

Je me présente, Tsantalis Anastase (Grec) né à Corinthe. il y a presque un an que je me trouve en Grèce.

Monsieur, après la presse que j'ai lu dans le journal grec (ΤΑ ΝΕΑ) avait un article, que vous avez la présidence des (syndicats ouvriers). J'admire votre capacité, j'admire votre activité, vous êtes le créateur de ce travail, vous êtes admirable, je vous félicite Mr. Hoffa des vos sentiments de votre conscience, ayant pour les ouvriers.

Je voudrais bien vous serrez la main comme l'ex champion (Joë Louis) qu'il vous a serrer dans le tribunal, mais malheureusement je suis pauvre et malade car, je n'ai pas le moyen de voyager.

Espérons de gagner la loterie le grand lot, et ma joie c'est de venir tout près de vous connaître.

Je termine ma lettre en vous priant de recevoir mes sincères salutations et je vous prie si vous avez le temps, ayez la bonne volonté de m'écrire deux mots.

Adresse:
Tsantalis Anastase
Poste Restante Centrale
Athènes Grèce

Tsantalis Anastase

3. 9. 59.

ADMINISTRATIVE FILE
Anderson, Donald Louis
x
x

September 2, 1961

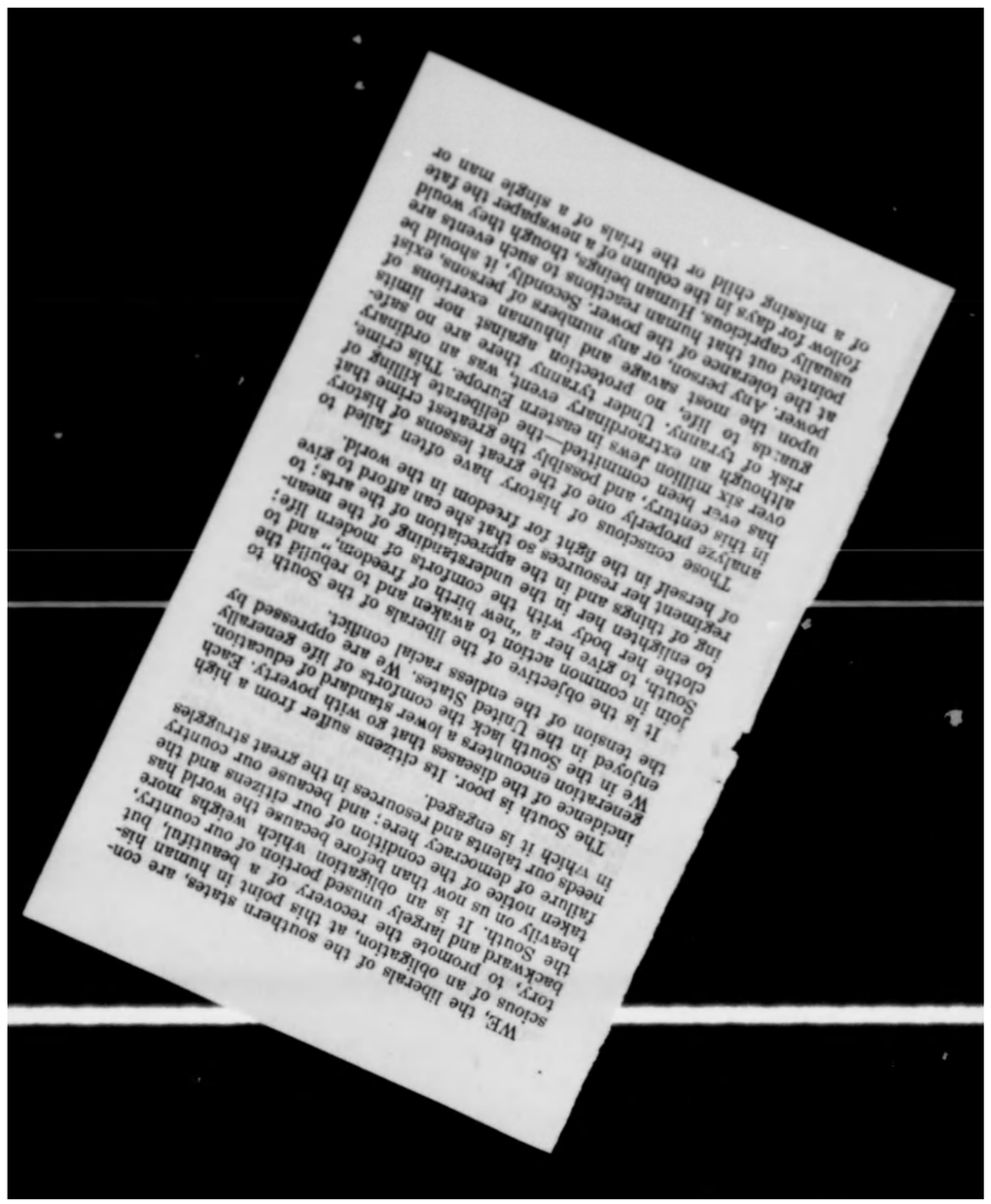
Dear Mr. Hoffa:

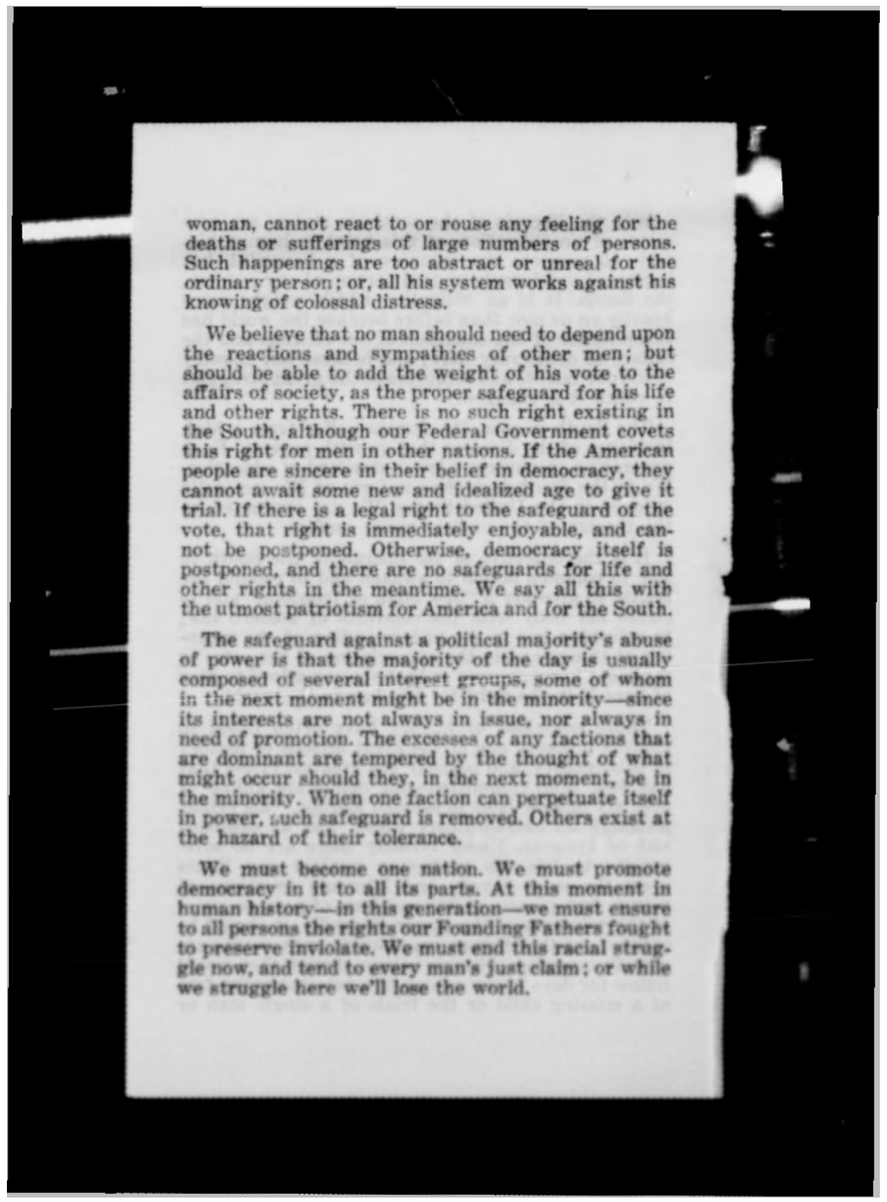
As I sat listening to you, in the lounge of the Lawyers Club at the University of Michigan Law School, my interest was greatly aroused by your comments on Labor's attempt to organize in the South. At that moment, I was convinced that our goals in that area of this country are very much the same.

Sincerely yours,

Donald Louis Anderson
Donald Louis Anderson


GOD IS
MY RIGHT
(LIBERAL) DEMOCRATIC
PARTY
OF THE SOUTH



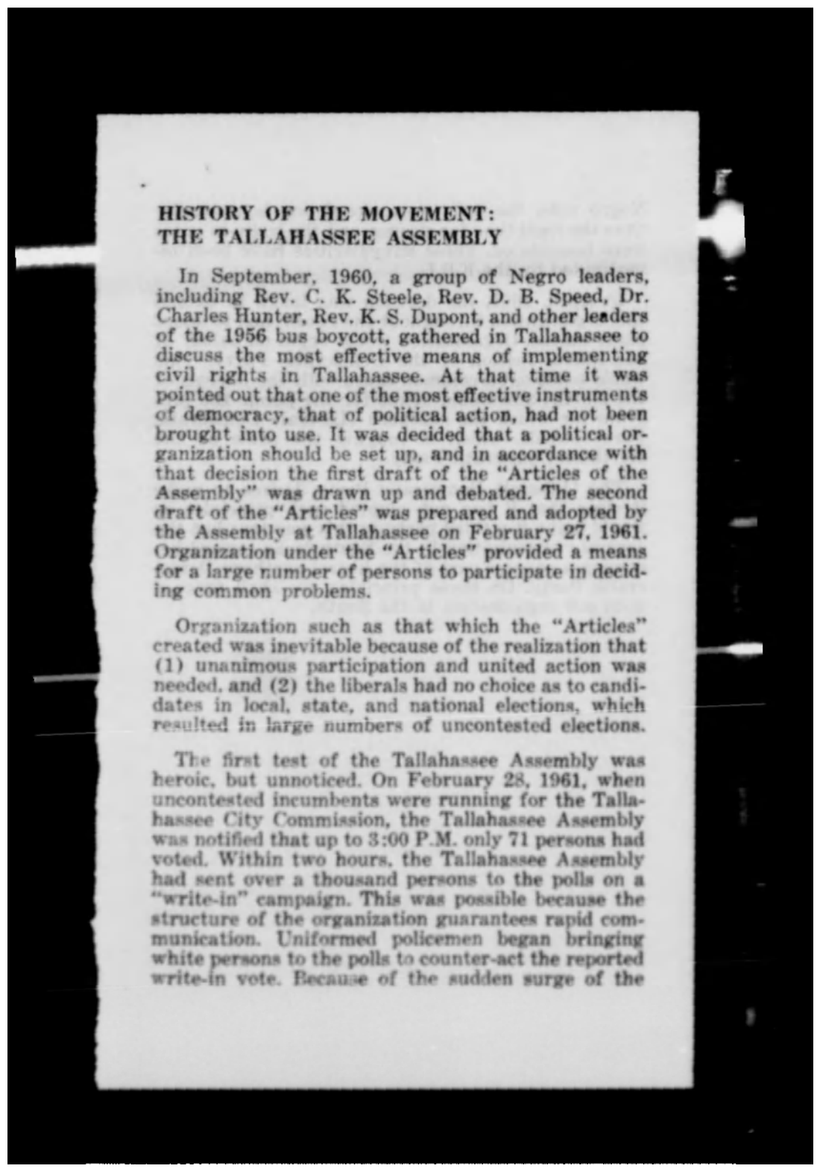


woman, cannot react to or rouse any feeling for the deaths or sufferings of large numbers of persons. Such happenings are too abstract or unreal for the ordinary person; or, all his system works against his knowing of colossal distress.

We believe that no man should need to depend upon the reactions and sympathies of other men; but should be able to add the weight of his vote to the affairs of society, as the proper safeguard for his life and other rights. There is no such right existing in the South, although our Federal Government covets this right for men in other nations. If the American people are sincere in their belief in democracy, they cannot await some new and idealized age to give it trial. If there is a legal right to the safeguard of the vote, that right is immediately enjoyable, and cannot be postponed. Otherwise, democracy itself is postponed, and there are no safeguards for life and other rights in the meantime. We say all this with the utmost patriotism for America and for the South.

The safeguard against a political majority's abuse of power is that the majority of the day is usually composed of several interest groups, some of whom in the next moment might be in the minority—since its interests are not always in issue, nor always in need of promotion. The excesses of any factions that are dominant are tempered by the thought of what might occur should they, in the next moment, be in the minority. When one faction can perpetuate itself in power, such safeguard is removed. Others exist at the hazard of their tolerance.

We must become one nation. We must promote democracy in it to all its parts. At this moment in human history—in this generation—we must ensure to all persons the rights our Founding Fathers fought to preserve inviolate. We must end this racial struggle now, and tend to every man's just claim; or while we struggle here we'll lose the world.

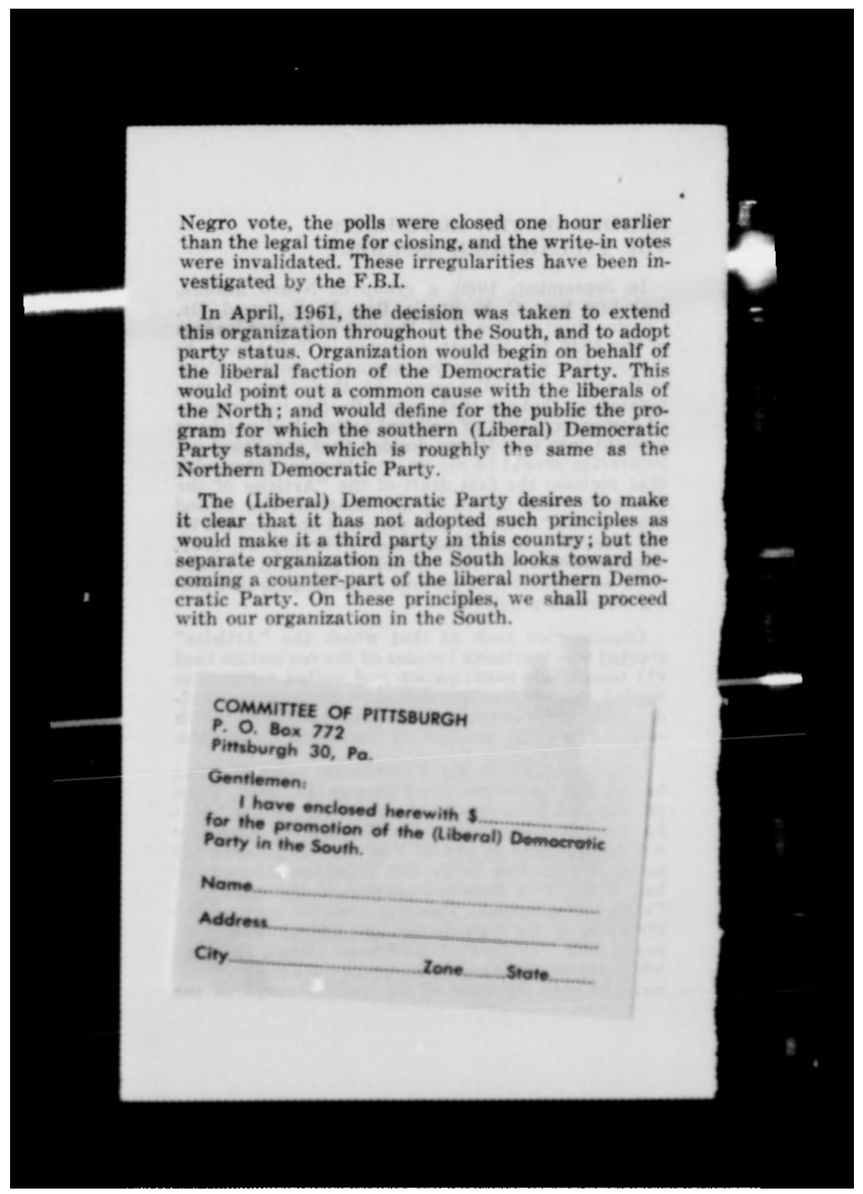


HISTORY OF THE MOVEMENT:
THE TALLAHASSEE ASSEMBLY

In September, 1960, a group of Negro leaders, including Rev. C. K. Steele, Rev. D. B. Speed, Dr. Charles Hunter, Rev. K. S. Dupont, and other leaders of the 1956 bus boycott, gathered in Tallahassee to discuss the most effective means of implementing civil rights in Tallahassee. At that time it was pointed out that one of the most effective instruments of democracy, that of political action, had not been brought into use. It was decided that a political organization should be set up, and in accordance with that decision the first draft of the "Articles of the Assembly" was drawn up and debated. The second draft of the "Articles" was prepared and adopted by the Assembly at Tallahassee on February 27, 1961. Organization under the "Articles" provided a means for a large number of persons to participate in deciding common problems.

Organization such as that which the "Articles" created was inevitable because of the realization that (1) unanimous participation and united action was needed, and (2) the liberals had no choice as to candidates in local, state, and national elections, which resulted in large numbers of uncontested elections.

The first test of the Tallahassee Assembly was heroic, but unnoticed. On February 28, 1961, when uncontested incumbents were running for the Tallahassee City Commission, the Tallahassee Assembly was notified that up to 3:00 P.M. only 71 persons had voted. Within two hours, the Tallahassee Assembly had sent over a thousand persons to the polls on a "write-in" campaign. This was possible because the structure of the organization guarantees rapid communication. Uniformed policemen began bringing white persons to the polls to counter-act the reported write-in vote. Because of the sudden surge of the



Negro vote, the polls were closed one hour earlier than the legal time for closing, and the write-in votes were invalidated. These irregularities have been investigated by the F.B.I.

In April, 1961, the decision was taken to extend this organization throughout the South, and to adopt party status. Organization would begin on behalf of the liberal faction of the Democratic Party. This would point out a common cause with the liberals of the North; and would define for the public the program for which the southern (Liberal) Democratic Party stands, which is roughly the same as the Northern Democratic Party.

The (Liberal) Democratic Party desires to make it clear that it has not adopted such principles as would make it a third party in this country; but the separate organization in the South looks toward becoming a counter-part of the liberal northern Democratic Party. On these principles, we shall proceed with our organization in the South.

COMMITTEE OF PITTSBURGH
P. O. Box 772
Pittsburgh 30, Pa.

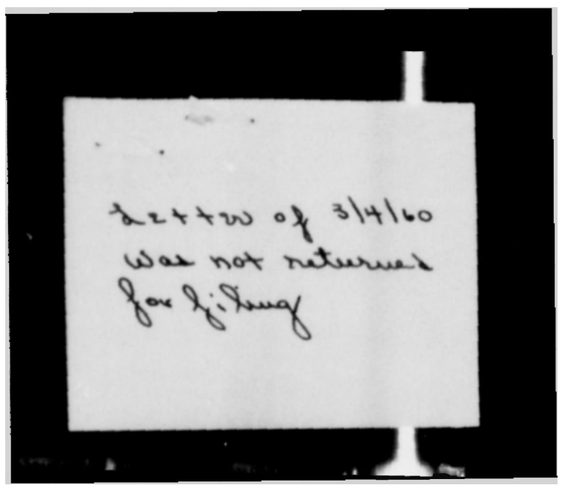
Gentlemen:

I have enclosed herewith $_____ for the promotion of the (Liberal) Democratic Party in the South.

Name_____

Address_____

City_____ Zone_____ State_____


Letter of 3/4/60
was not returned
for filing

ADMINISTRATIVE FILE
Anderson, Eric H.
X Lurton & Company
X

April 20, 1960

Mr. H. H. Alexander
Lurton & Company
Suite 1720 - 220 S. State Street
Chicago 4, Illinois

Dear Sir:

We have your letter of April 19th. Unfortunately, our organization has no records which could help you trace Eric H. Anderson.

Very truly yours,

H. J. Gibbons
Executive Assistant to the
General President

HJG/yk

PHONE HAymarket 7-4182

LURTON & COMPANY

SUITE 1720—220 S. STATE STREET

CHICAGO 4, ILL.

April 19, 1960

VIA AIR MAIL

International Brotherhoodof Teamsters
25 Louisiana Avenue, N. W.
Washington 1, D. C.

Gentlemen:

We wrote to you on March 4th, soliciting your cooperation in locating information on one Eric H. Anderson, who formerly resided at 869 and 871 North Wells Street, Chicago, between the years 1928 and 1931. He was reported to have been a chauffeur at that time, married to one Hilda Anderson.

We want to find Mr. Anderson, or his widow, or his family, in the event he has passed away, to advise them that some property which they purchased back in 1930 has been sold for taxes and title will pass to the tax buyer in the near future. We want to help them either to redeem the property, or purchase their equity before it is too late.

The Chicago local does not have records going back that far and we would appreciate it if you would be kind enough to check your records and tell us if you have any information on Mr. Anderson which would give us any leads to his present whereabouts, or that of his family. If you have a membership application, policy, a pension fund of some kind, which would have information concerning them, it would be of considerable help to us and to the family if that information were furnished to us at the present time.

Many thanks for your cooperation.

Very truly yours,

LURTON & COMPANY

H. H. Alexander

H. H. Alexander

HHA:HR

ADMINISTRATIVE FILE
Anderson, Ethel Kelleher
X
X

January 29, 1963

Mrs. Ethel Kelleher Anderson
Clarkstan Hotel
1423 - 5th Avenue
Seattle, Washington

Dear Mrs. Anderson:

Thank you for your kind letter of January 13th. I read its contents with interest, and hope that in the course of my activities, I am doing something to help on a serious problem - that of the retired people.

Enclosed I am sending you a copy of a speech I recently made in St. Louis, which deals with the same situation.

Very truly yours,

H. J. Gibbons
Executive Assistant to the
General President

HJG/yk
Enc.

Union to Build Apartments For Retired

The international executive board of the Teamsters' Union has authorized construction of apartments in six cities to provide "gracious living without regimentation" for retired teamsters.

Harold J. Gibbons, executive vice president of the union, said construction of the first apartment will begin next spring in St. Louis, his home city.

Apartments also have been authorized in Seattle, Denver, Pittsburgh, New York and Miami Beach, Gibbons told the Associated Press yesterday. No time was set for construction.

The 25-story St. Louis apartment will cost $6,000,000 and will accommodate 500 persons. It will be air-conditioned and will have a swimming pool, theater, shopping center, health club, restaurant and cocktail lounge.

Clarkston Hotel,
1423— 5th Ave,
Seattle, Wash,
Jan. 13 — 1963
Sunday

Mr. Harold J. Gibbons,
"Teamsters Union,
Conrad Ave at Denny
Seattle. Washington

Dear Harold J. Gibbons:—

I want to "commend you" in your fine work that you have done so long "for your cause" — and your "Org" and now on these retirement "Homes. I think that is wonderful

11.

Harold J. Hebbard
Lechmere Annex

If I were to live my life over
I would take a job at some
work so I would be "owned
by a record". They are the problems
of the "working man and woman."
I am now going on 70 and
I don't have much to live on
$51.00 from the State of Washington
old age pension & my Social
Security is only $41.90 so I
am going back to work with a
Real Estate office and go to the U of
W to the Real Estate School so I
can pass the Real Estate exams
Previously I worked for a year and
my ~~[illegible]~~ Rainier Valley for Frank Richeau,
4467 Fauntleroy Ave Realtor.

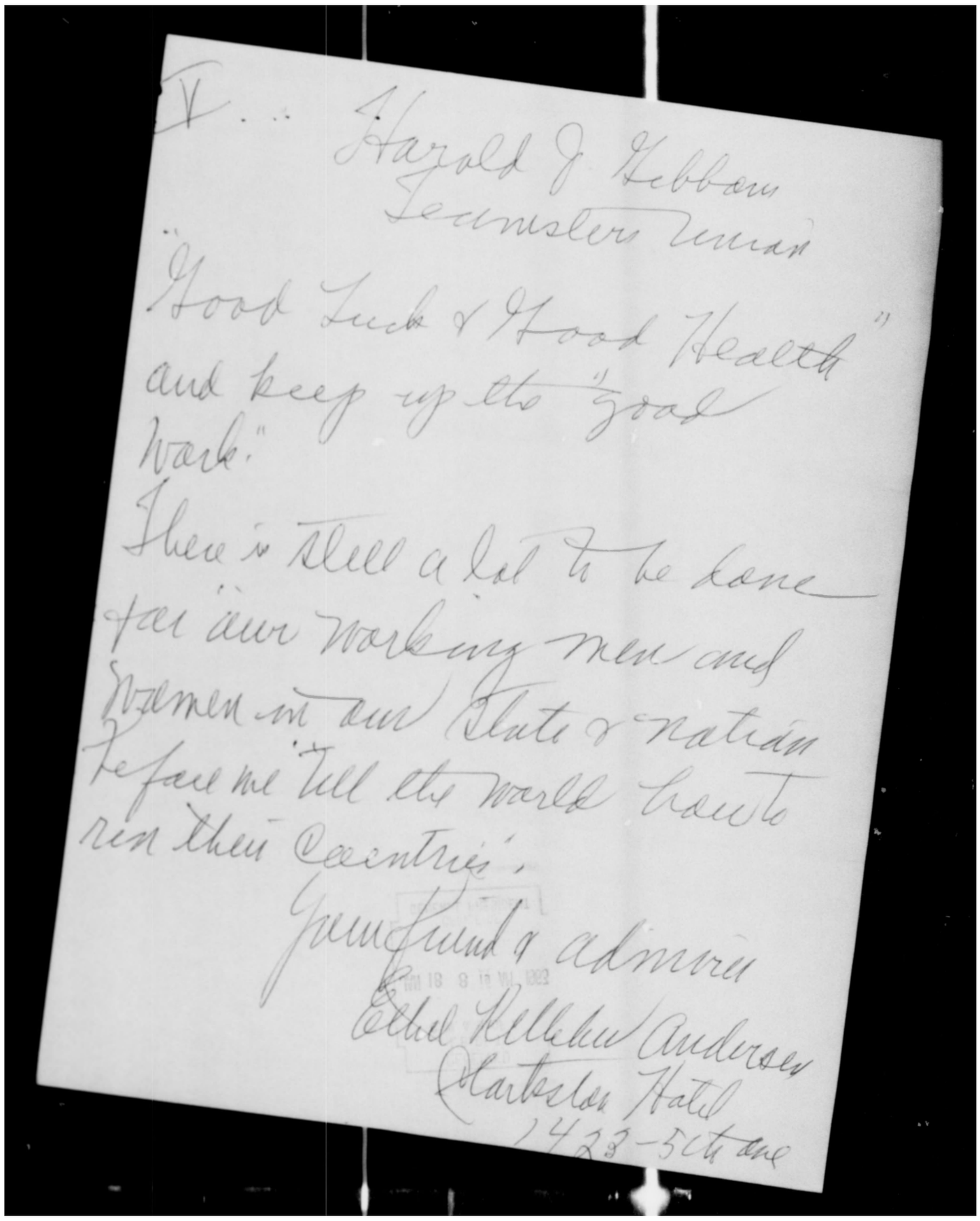
771. Harold J. Gibbons

The church build fine expensive
retirement homes for the wealthy
church people but do nothing for
the poor church person so the
United States Government will
have to do something soon.

They are in Oakland, Oregon at 19th,
& Ended it in the Northwest Towers
and no one with more then $ 50,000 in
came can get in there. They are planning
on building another soon. Why can't
Seattle & our State of Washington do
something for our Native indian people?
I hope you decide to build it's place
here soon to put many to work.

Harold J. Gebbers
Seamsters Union

men to work. Use your influence
I also hope the Boeing people
so far a Union shop. They
have always been a "cheap
outfit" and have never paid more
than they could get by with
My husband (deceased now)
Wanted work. Two hundred men
the Bremerton Shipyards to work.
(he was machinist) Heard W.
) talked because he said Boeing
did not pay enough and that
was ten & fifteen years ago when prices
were not as high as they are now



To . . Harold J. Hebbon
Teamsters Union

"Good Luck & Good Health"
and keep up the "good
work."

There is still a lot to be done
for our working men and
women in our State & nation
before we tell the world how to
run their Countries.

Yours Truly & admirer
Ethel Kelleher Anderson
Clarkston Hotel
1423-5th Ave

ADMINISTRATIVE FILE

Anderson, Robert E.

X

X

Press Intelligence, Inc.
WASHINGTON 1, D. C.

KANSAS CITY (Mo.)
STAR

Circ.: e. 338,237
S. 360,361

Front Page | Edit Page | Other Page

Date: JUN 6 1960

FIVE SAY ANDERSON "NOT INTOXICATED"

Witnesses When Statement Was Given About Grass Give Their Views.

"HAD ONLY ONE DRINK"

Stanton Gladden Tells of Short Visit to Bar Near Union Hall.

The five persons present during all or part of the time Robert E. Anderson gave a statement charging Edgar M. Grass, fire chief with city permit association irregularities has denied today Anderson was drunk when he made the statement.

The witnesses included two officials of the firefighters union local, two lawyers and a notary public, who is also employed by the firefighters union.

Told of Drinks.

In a subsequent statement by Anderson Saturday he charged that Stanton Gladden had "poured drinks" down him and that he was "bluffed" with drink when he made the statement condemning Grass.

Anderson, a former fireman turned Teamster organizer, signed an affidavit Friday last week saying that Grass supplied him with answers to a test of merit examinations for promotion to fire captain last October.

Councilman Joseph Welsh read the affidavit in a council meeting Friday and Anderson quickly went into hiding.

According to Carl (Carky) Civella, a friend of Anderson's, he did this because he feared harm from the firefighters union members because they might harm him so they could blame it on the Teamsters."

Then Anderson Saturday repudiated his earlier statement before Charles Fisher, councilman and John Cosgrove, assistant city counselor.

"Completely Sober."

Gladden said today that Anderson was "completely sober when he gave his statement." He said Anderson had one drink with him in a bar across the street from the union hall before making the statement and one in the union hall when he was halfway through the statement. Anderson asked for the drink in the union hall, Gladden said, and Jim Mining, secretary of the local, bought it for him.

Gladden said he and Anderson were in the bar only about 15 minutes before going into the union hall.

Mining gave a slightly different version. He said that Anderson and Gladden spent 30 minutes to an hour in the bar and once in the union hall Anderson asked for a drink before he began giving the statement.

Mining confirmed buying Anderson the drink.

"But I can say very sincerely he was not drunk in the office," Mining said.

Under No Duress.

John Manning, attorney for the firefighters union, said Anderson had "had his faculties and was under no duress."

"He wasn't drunk at all, certainly not in the sense he did not know what he was doing," Manning said.

Robert Fousek, another lawyer, acknowledged Anderson had been drinking but knew what he was saying. Both lawyers confirmed that they saw Anderson have only one drink in the union hall.

The notary public, Mrs. Peggy Vater, said:

"As far as I know, he wasn't drunk. I didn't even see him take one drink. I was in the other office when he gave the statement and I only witnessed his signature."

In his repudiating statement Saturday Anderson said that Gladden drove him downtown to a private investigator's office where he could be given a lie detector test. He added that the test was refused him by a man who told him, "I can't give him that test, he is drunk and you (Gladden) are drunk, too."

George Robinson, the investigator, confirmed today that he refused to give Anderson the test.

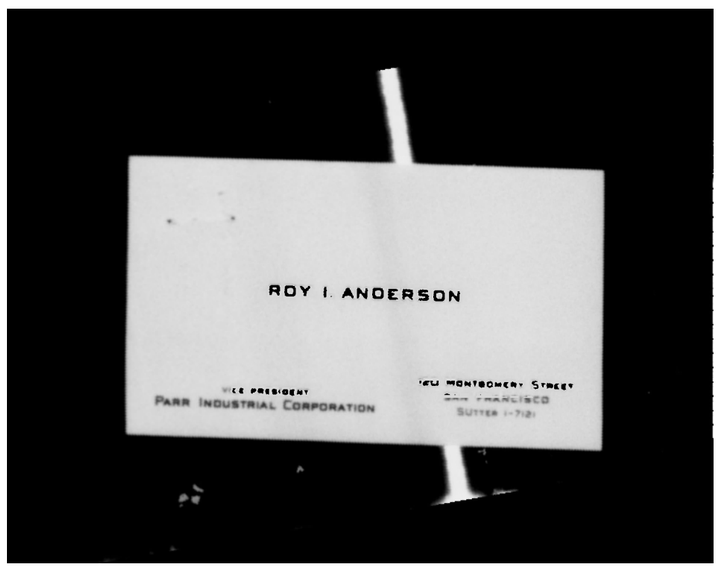
Describes Appearance.

Robinson said Anderson was "weaving profusely, his face was flushed and his eyes were watering." When he asked Robinson for a match to light a cigarette he "had a hard time getting the cigarette to it," the private investigator said.

Gladden, the president of local No. 48, explained that he said Anderson had had several drinks after the statement had been given and before they went to see Robinson.

He again called for a grand jury investigation of the matter and was joined by both attorneys in the desire to have a lie detector test administered to everyone involved, including Chief Grass.

A hearing on the charges and repudiation is scheduled for Thursday before the city council's fire and water committee.


ROY I. ANDERSON
VICE PRESIDENT
PARR INDUSTRIAL CORPORATION
SUTTER 1-7121

ADMINISTRATIVE FILE

Anderson, Roy A.
Parr Industrial Corporation

PARR INDUSTRIAL CORPORATION

180 MONTGOMERY STREET
SAN FRANCISCO 4, CALIFORNIA
SUTTER 1-7121

September 8, 1959

Mr. Harold Gibbons
Executive Assistant to the General President
International Brotherhood of Teamsters, Chauffeurs,
Warehousemen & Helpers of America
25 Louisiana Avenue, N. W.
Washington 1, D. C.

Dear Mr. Gibbons:

I have been advised by Mr. Hoffa that I might call on you the next time I am in the Washington area.

I tentatively plan to be in New York the week of September 14. On arrival I will call you for an appointment to meet with you and to acquaint you with our industrial program.

Very truly yours,

PARR INDUSTRIAL CORPORATION

Roy A. Anderson
Vice President

RIA:ja

ADMINISTRATIVE FILE ✓

Anderson, Rudolph
X Eagan, William B. (atty.)
X

October 23, 1962

Mr. William B. Eagan
Suit 917, Schaff Building
Philadelphia 2, Penna.

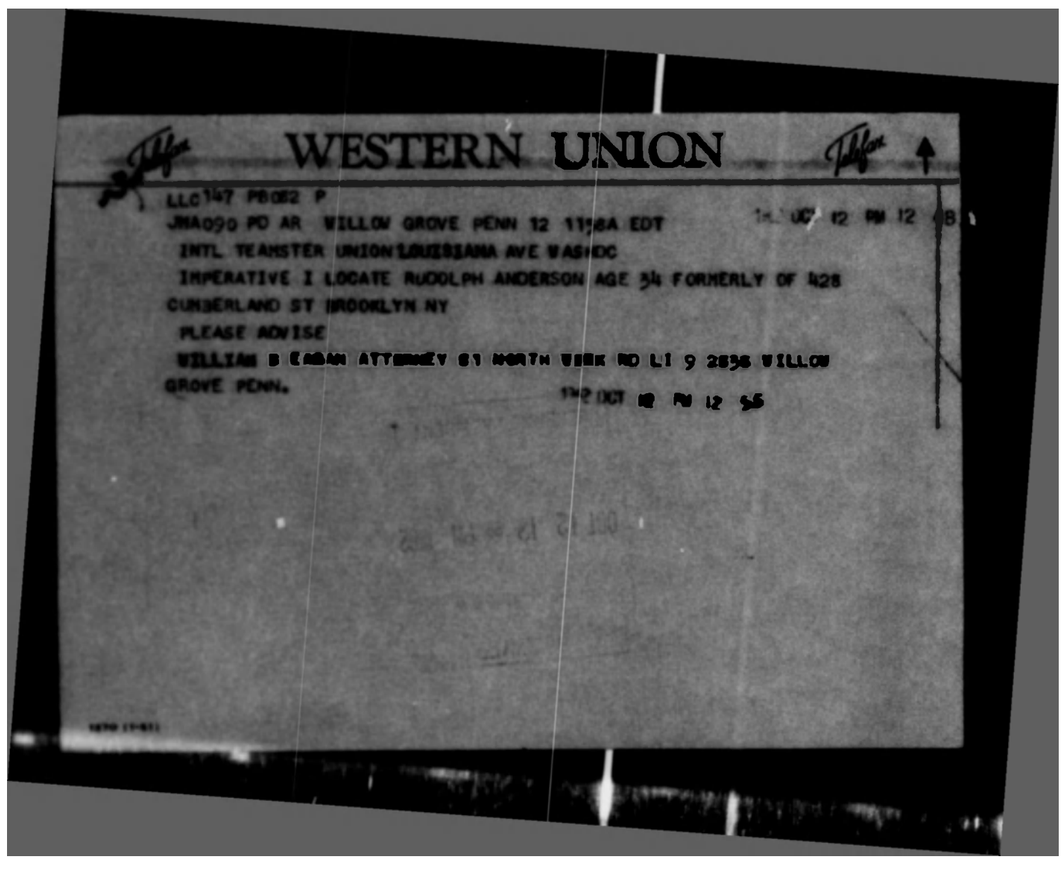
Dear Mr. Eagan:

We have your telegram and your letter of October 12th. Unfortunately, we can be of no help to you in this matter as we do not keep a record of our membership here in the International Office.

Very truly yours,

H. J. Gibbons
Executive Assistant
to the General President

HJG/mc



WESTERN UNION

LLC147 PB082 P
JMA090 PD AR WILLOW GROVE PENN 12 1156A EDT
INTL TEAMSTER UNION LOUISIANA AVE WASHDC
IMPERATIVE I LOCATE RUDOLPH ANDERSON AGE 54 FORMERLY OF 428
CUMBERLAND ST BROOKLYN NY
PLEASE ADVISE
WILLIAM B EGRAN ATTORNEY 61 NORTH VERK RD LI 9 2836 WILLOW
GROVE PENN.

WILLIAM B. EAGAN
ATTORNEY AT LAW
SUITE 917 SCHAFF BUILDING
1505 RACE STREET
PHILADELPHIA 2, PA.

GERALD L. BOWEN

LI 9-2838

October 12, 1962

International Teamsters Union
Louisiana Avenue
Washington, D. C.

Re: Rudolph Anderson

Gentlemen:

This letter will supplement my telegram this date.

It is imperative that I locate Rudolph Anderson, age 34, formerly of 428 Cumberland Street, Brooklyn, New York. Mr. Anderson was a witness to a fatal accident on July 15, 1959, in Burlington, New Jersey.

Mr. Anderson was operating a tractor-trailor owned by F & A Transportation Company of New Jersey, and under contract to the U. S. Post Office Department.

I have contacted both the Post Office Department and F & A Transportation Company of New Jersey without success. This matter is being tried on the 29th of October, 1962. Therefore, any information you will be able to provide us with will be greatly appreciated. Of course, if we do locate Mr. Anderson and he does agree to accommodate us, we will be more than happy to see that he is compensated for any lost time and expenses he may incur.

Please advise.

Very truly yours,

WB Eagan

WILLIAM B. EAGAN

WBE/gea

ADMINISTRATIVE FILE ___
Anderson, Thorwald
X
X

February 12, 1960

Mr. Thoreald Anderson
c/o New York Long Branch
Bus Lines, Inc.
Leonardo, New Jersey

Dear Brother Anderson:

I have your letter of February 11th and I appreciate the ideas contained therein.

However, at the moment, I don't see that we would have any use for any short range vechicle since most of my trips are 1,000 miles in distance or more.

I will keep your idea in mind nonetheless.

Fraternally yours,

James R. Hoffa
General President

JRH/jo /JK

Dear Mr. Hoffa,

This letter will introduce myself. My name is Thorvald Andreen. I am a bus driver and a member of the teamsters union local 701. I am Shop Steward of our Garage. Mr Bob Cook: President, William Nutt: Secretary & Treasure. My Union Book in good standing. By the way we are the only Bus Company in the County To belong To The Teamsters and very proud.

Came To my knowledge That all industries are making their offices mobile, This enables them to check all their plants, holdings and attend meetings all parts of The country quickly and efficiently with full staff such as Secretary, Lawyer, Doctor and etc. in one group. By mobile I mean a modern bus converted to a modern up To date comfatable, convienent office with such Things as Telephones, Radio, T.V., Air Conditioning, Lounge, Toilet utilities, Kitchenette and all office equipment on which even

II

Way you would see fit to have This bus designed. This bus can be used for entertaining, sightseeing, visiting delegates, for all types of Business and Pleasure. For instance a trip to New York office To office starting 4 hours. This eliminates all unnecessary Transfers. It can also be used as a stationary office for group consultation to and from count with your staff. This bus is very flexible because it can travel on any road, Highway or Turnpike in this country. The initial cost of Conair is the greatest expense after that would be minor compare to Taxi fares, Planes. and etc. The bus would be at your disposal 24 hrs a day and ready to travel to all parts of the Country. It is necessary to have two drivers with a small compartment for their Personal belongings.

If you are at all interested in This Idea I would like to have a personal interview with you to explain cost, facilities and plans for building such a bus. If you accept The interview I would like it known

That myself and a Brother member would like the job as drivers. Our records stand for themselves. Ten years driving and no accidents or otherwise. Expect a reply soon.

Thank you very much for your time

Respectfully,
Thorvald Anderson
Shop Steward
Local 701
Bus Division

T. Anderson
% New York - Long Branch Bus Lines inc.
Leonardo, New Jersey

Largest Negro Weekly
Newspaper in the World

THE PITTSBURGH Courier

Published by The Pittsburgh Courier Publishing Company, Inc.

POST OFFICE BOX 1028 MUrray 3-2000 PITTSBURGH 30, PA.

March 1,1958

Mr. James R. Hoffa,General President
The Teamsters International
25 Louisiana Avenue,NW
Washington 1,D.C.

Dear Friend Hoffa:

Thanks very much for you letter of February 20 which has been received and duly noted.

Forgive my delay in acknowledging it. I have been quite busy during the past two weeks, as I know you always are.

I shall be waiting for the time to come when your expansion program begins to move and will be ready to cooperate with you in whatever way I can.

By the way, how are things coming along on the Joe Louis angle?

For the next five weeks I can be reached at 373 Broadway in Macon, Georgia.

With best regards to you and all, I am,

Sincerely yours,

Trezzvant W. Anderson

ADMINISTRATIVE FILE

Anderson, Trezzvant W.

February 20, 1958

COPY

Mr. Trezzvant W. Anderson
917 Sixth Avenue
Columbus, Georgia

Dear Mr. Anderson:

I enjoyed reading your letter of February 17th and appreciate your many thoughts on possible publicity. However, at this time, we are far from being in a position to formulate any advertising progress and so this is one of the things that will have to wait. At some time in the future if such a campaign as you suggest reaches any serious stage of discussion, I shall be happy to get in touch with you.

Very truly yours,

James R. Hoffa,
General President

JRH/yk

Largest Negro Weekly
Newspaper in the World

THE PITTSBURGH
Courier

Published by The Pittsburgh Courier Publishing Company, Inc.

Member of the Audit
Bureau of Circulations

POST OFFICE BOX 1028 — MUrray 3-2000 — PITTSBURGH 30, PA.

PLEASE REPLY TO: 917 Sixth Avenue
Columbus, Georgia

CONFIDENTIAL

February 17, 1958

Mr. James R. Hoffa, Gen'l Pres.
The Teamsters International
25 Louisiana Avenue, NW
Washington, 1, D. C.

My dear Mr. Hoffa:

It has been quite a while since the convention at Miami Beach where we had the privilege of meeting you and where I enjoyed our conversations on the Teamsters, Joe Louis, the future of your great union and your own infectious personality.

I am presuming that your public relations people showed you the articles I did in The Pittsburgh Courier, and in which I sought to hew to the line without taking sides.

As I mentioned to you during one of our talks that I hoped you would find it convenient to take advantage of our paper in future months when you began your organizing campaign, I am now writing to stress that desire and to suggest that now might just be a good time to begin using our pages. You said you intended to do some advertising, etc.

Let me now suggest that since you have been able to get things started, two or three articles of a feature nature, pointing out the gains made in the economic world by your 300,000 Negro members ought to be very helpful in your fight to stave off the now-underway-drive of the AFL-CIO to wean off some of your members. A few weeks ago in Birmingham, Cornelius Haiden, veteran Negro international organizer of the AFL showed me some material he is using to woo Laundry Workers, Longshoremen and others--Negro. I had already talked with Leon Boland, Int'l Rep. of the Laundry Workers, and Judge Henderson, Int'l Exec Board of the ILA (both Negroes) about the prospect of a tie-in with the Teamsters in a new big labor organization. I recall some of your hints to me, and I think now is a good time to begin a wide publicity campaign for Negro members. After all, why wait until the middle of the war to start fighting.

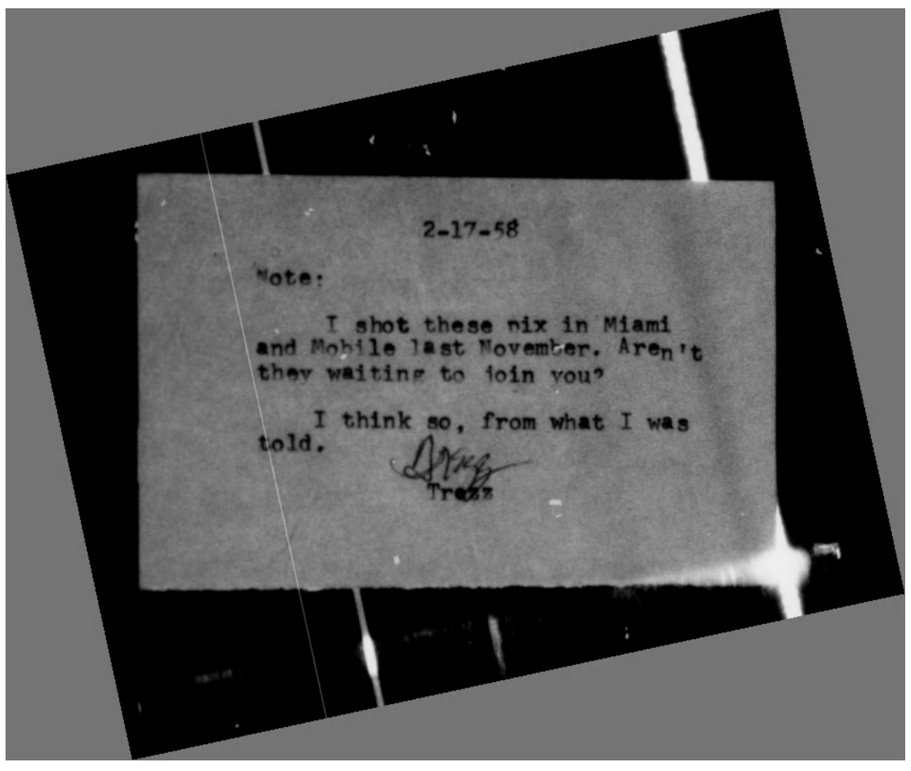
The Courier, I am sure, would carry a series which could be run in our Magazine Section in such a way as to be pulled out and used as one-sheets, or which you could order as reprints and distribute nationally, say some 200,000 to 500,000 reprints. I don't know what the cost would be, but I am sure our Business Department and you could get together. Or, you might use a series of full-page ads in the Courier, drawn up by your own public relations men.

Meanwhile, accept my best wishes for all that is good and beneficial for yourself, family, organized labor --and all those Negro members you have and ought to have.

Sincerely yours,

cc: Editor P.L. Prattis

Trezzvant W. Anderson

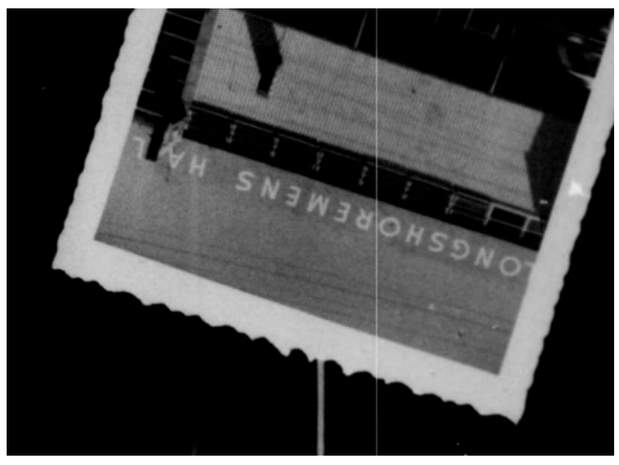

2-17-58

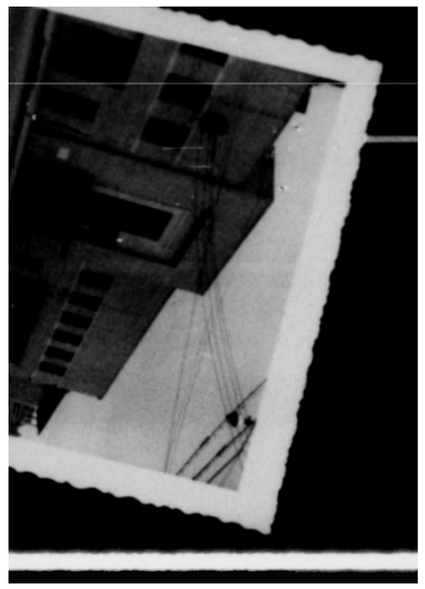
Note:

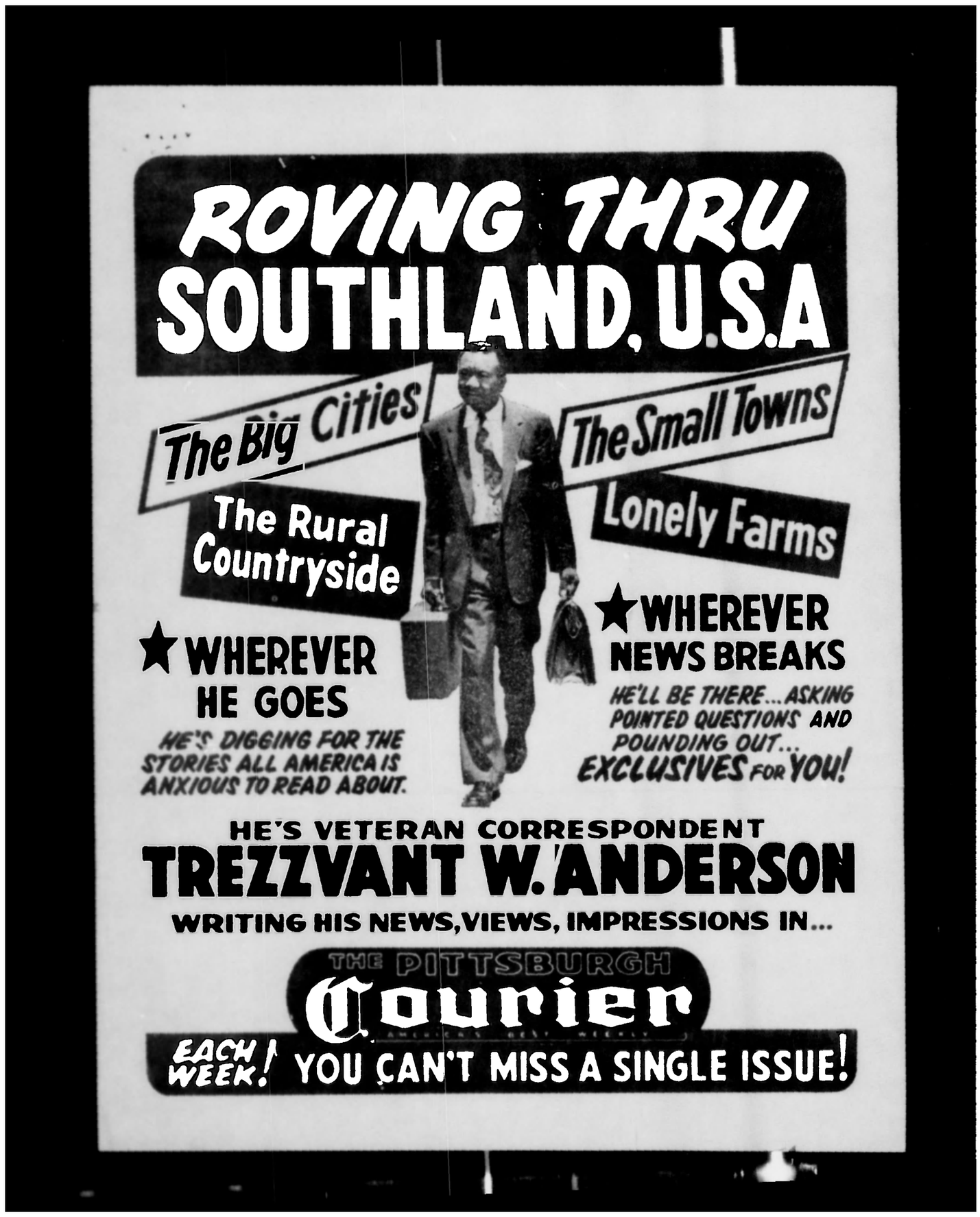
I shot these pix in Miami and Mobile last November. Aren't they waiting to join you?

I think so, from what I was told.

Trezz


LONGSHOREMENS




ROVING THRU
SOUTHLAND, U.S.A
The Big Cities
The Small Towns
The Rural Countryside
Lonely Farms
★WHEREVER HE GOES
HE'S DIGGING FOR THE STORIES ALL AMERICA IS ANXIOUS TO READ ABOUT.
★WHEREVER NEWS BREAKS
HE'LL BE THERE... ASKING POINTED QUESTIONS AND POUNDING OUT... EXCLUSIVES FOR YOU!
HE'S VETERAN CORRESPONDENT
TREZZVANT W. ANDERSON
WRITING HIS NEWS, VIEWS, IMPRESSIONS IN...
THE PITTSBURGH
Courier
EACH WEEK! YOU CAN'T MISS A SINGLE ISSUE!

ADMINISTRATIVE FILE

Anderson, Willard

X

X

Office of the General President

August 6, 1959
DATE

To: Mr. Jim Casey

From: Mr. M. J. Gibbons

Re: Advance for expenses

Would you please advance Willard Anderson $100.00 for his expenses.

M. J. Gibbons,
Executive Assistant to the
General President

MJG/js

-2-

CF

ADMINISTRATIVE FILE
Andison, R. N.
_X
_X

December 18, 1963

Mr. B. M. Waggoner
President, Joint Council 71
1221 D. West Pierce
Phoenix, Arizona 85007

Dear Sir and Brother:

The enclosed communication from R. N. Andison is self-explanatory.

If it is at all possible to aid this man concerning employment, it would be appreciated by the International office.

Fraternally yours,

James R. Harding
Special Assistant to
the General President

JRH:ja
Enclosure
Harding

Dear Sir 4 Dec 1963

about 1930 in Detroit on West Fort St. I joined the Union, I was associated with Norwalk Truck Line, on Junction Ave at R. Road. Mr. Paul de Loretto was manager. An employee of yours Mr. Red Brennen signed me up. My Bond Charlotte, was Steward.

I have never bothered Locals very much, but now I need employment as truck Driver near Tucson, any good word from you, would be much appreciated.

R. N. ANDERSON
1505 N. 2ND Ave Zip 85705
PHONE MA. 22402, TUCSON ARIZ.

ADMINISTRATIVE FILE
Asdro, Louis R.
X
X

Office of the General President

To: Mr. Harold Thirlos

From: H. J. Gibbons

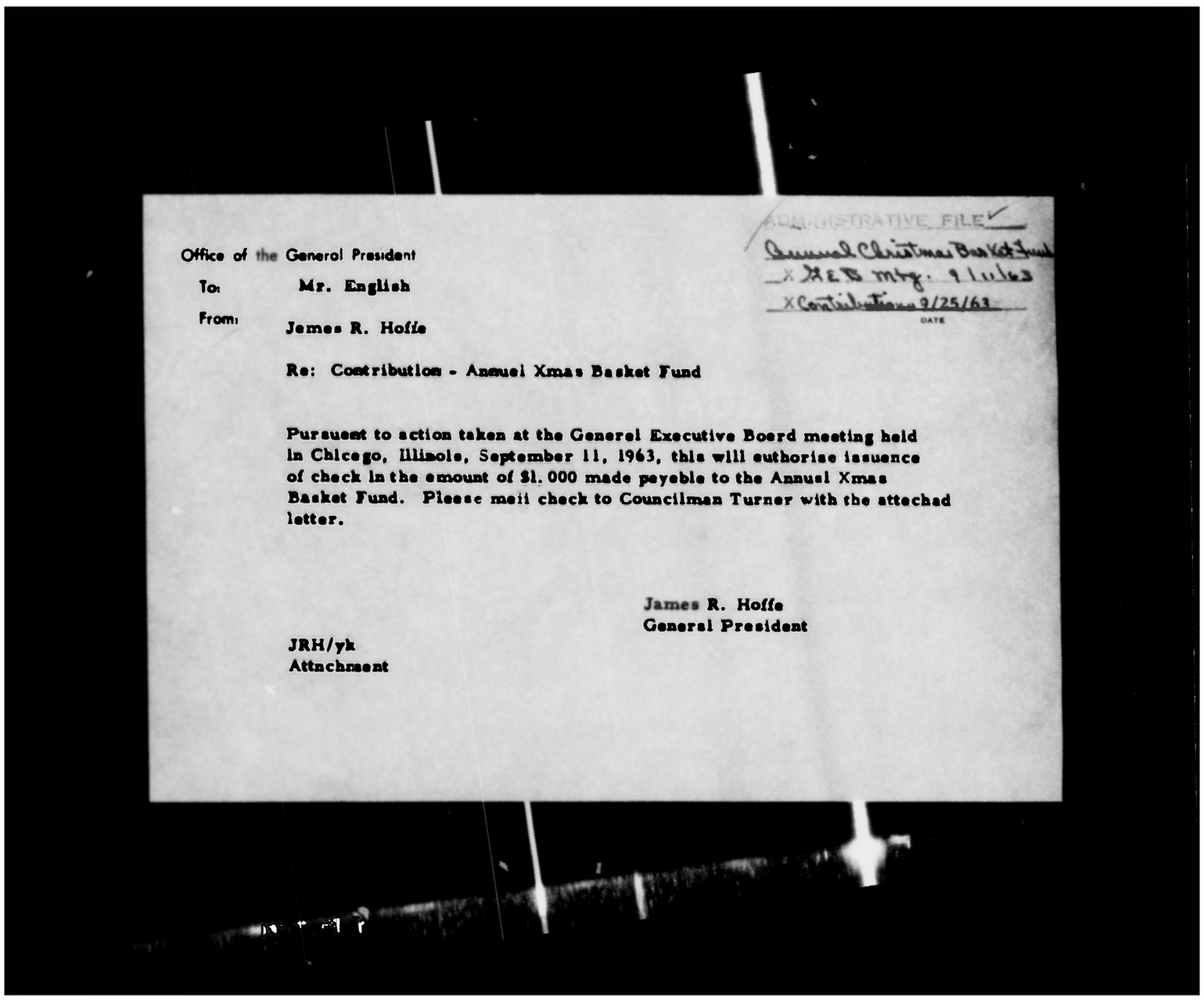
7/3/58
DATE

RE: Telegram from Louis R. Asdro

Attached are copies of telegram received and sent to Louis R. Asdro. Would you immediately contact him re his problems.

H. J. Gibbons,
Executive Assistant to the
General President

HJG/yk
Attachments



ADMINISTRATIVE FILE
Annual Christmas Basket Fund
X E B mtg. 9/11/63
X Contribution 9/25/63
DATE

Office of the General President

To: Mr. English

From: James R. Hoffa

Re: Contribution - Annual Xmas Basket Fund

Pursuant to action taken at the General Executive Board meeting held in Chicago, Illinois, September 11, 1963, this will authorize issuance of check in the amount of $1.000 made payable to the Annual Xmas Basket Fund. Please mail check to Councilman Turner with the attached letter.

James R. Hoffa
General President

JRH/yk
Attachment

MAURICE BROOKS GATLIN
GENERAL COUNSEL

TELEPHONE:
TUlane 2334

THE ANTI-COMMUNIST COMMITTEE OF THE AMERICAS
(CARIBBEAN DIVISION)
SUITE 1672 THE CLAIBORNE TOWERS
NEW ORLEANS

ADMINISTRATIVE FILE
Anti-Communist
Committee of the
Americas

January 19, 1960

MEMO TO MR. HOFFA

This is strictly an "Amateur" effort to get some assistance in fighting Atheistic Communism in the Caribbean. This letter is written by me, personally, and your name was selected in the same mannar. "Sucker" lists and the like are out of my line. As a practical and hard-boiled trial lawyer for nearly th irty years, I have learned that I am not too smart anyway.

As long as Atheistic Communism was kept out of the Americas, then I could go ahead battling it, earning mostly the hatred and ridicule of my non-understanding fellows, and risking only my own useless neck and my own money. Since the enemy has now taken over two Caribbean nations (Cuba and Venezuela) and threatens us on all sides, we may no longar afford complacency.

More than twelve thousand Cubans have met death at the hands of Communist firing squads. Have you ever watched a firing squad execution? Its a pretty grim business. When Spain engaged in just a little of it in trying to put down revolt in its territory of Cuba, and we realized it was only 90 miles off our shores, our ancestors, who seemed to have more character and integrity than we, went to war on the side of Cuba and helped them put a stop to it; when the same thing is done in modern Cuba, only a hundred times more, we stand complacently by and watch our Cuban American brothers meet death on the orders of Moscow and Peping! No wonder some other nations consider us barbarians! If we were truly human and civilized, we would put a stop to the slaughter in Cuba for humanitarian reasons; even if we were endowed with ordinary intelligence, we would run the Communists out of Cuba and the Caribbean in protection of our own interests.

Enclosed is some of my own writings about the matter, and some of others. You can throw it all in the waste basket if you so desire. That is your legal privilege. On the other hand, and if you are concerned with the welfare of our country, you can send a contribution in the enclosed envelope--or, if you so desire, send it to your own lawyer and tell him to send it along when he is satisfied that it will not be used for any other purpose than fighting Atheistic Communism, trying to keep it out of our Hemisphere--strictly within the law. I am not quite as conservative as the late Senator Taft, perhaps, but I have always avoided the "lunatic fringe" and the "hate mongers" as I would the plague. I am no "Expert" on anything, but it takes no special knowledge to know that India and Pakistan and Afghastan are of little concern to us; the nations of the Caribbean and Central America are, and I know those countries and the fine people who live there (along with a few evil but powerful servants of Moscow)like you know your own back yard. I also know that our survival as a nation and whether your children and grandchildren live as free men and women or in Atheistic-Communis slavary depends upon what happens there--now. I need help. It's up to you.

Yours very truly

MAURICE BROOKS GATLIN, GENERAL COUNSEL

UNSOLICITED COPY TO: BETTER BUSINESS BUREAU, NEW ORLEANS
P.S. Yes, I know this letter is full of errors; but I wrote it myself and I am no typing expart.

MURDER IN COMMUNIST CUBA: THE TRAGEDY OF DOCTOR ERNESTO DE LA FE

BY MAURICE B. GATLIN, GENERAL COUNSEL
THE CARIBBEAN DIVISION

SUITE 1672 CLAIBORNE TOWERS
TELEPHONE TUlane 2334

NEW ORLEANS

DOCTOR ERNESTO DE LA FE IS SERVING a "sentence" of fifteen years at hard labor at the notorious Concentration Camp, El Presidio, on the Isle of Pines, Cuba. We know as a fact that this Concentration Camp is, by all odds, the cruelist, the most foul and most degrading that tha modern world has ever known.

Doctor da la Fé was once a Cabinet officer and Ambassador under the late Non-Communist Dictator of Cuba, Fulgencia Batista. (And let it be remembered that any person who had anything to do with government in Cuba during the past quarter century, with a few lapses of time, served under Fulgencia Batista). ((And let the writer state again that he has never seen ex-President Batista, never has received, directly or indirectly, any payment in money or anything of value from him, and would do everything in his power to prevent ex-President Batista from again gaining power in Havana). However, Doctor de la Fé, an able and schorlarly Cuban-American Journalist, broke with Batista six years ago, and, until tha Castro government came to power, led a dangerous and precarious existence as a militant journalist fighting Batista. Having escaped the ire of ex-President Batista, he was jailed without charge a day or so after the Communist Castro forces entered Havana.

Like more than twelve thousand other Cubans, most of whom were connected with the Batista government in such capacities as letter carrier and traffic cop, Doctor de La Fé would have been liquidated by firing squad at La Cabaña, except for the good offices of Senator Wayne Morse, Chairman of the Sub-committee on Latin American Affairs of the Senate Foreign Relations Committee (His denial to the contrary notwithstanding).

As of now, and to the best of my knowledge, Doctor de la Fé is serving a "sentence" of 15 years hard labor at the notorious Isle of Pines Concentration Camp, a "sentence" imposed on him by a "Military Court" composed of illiterate non-lawyers, after such tribunals had been officially abolished. By comparison, the Isle of Pines Concentration Camp makes the infamous German Concentration Camps of World War II seem as luxurios summer resorts. (And every witness the government produced, testified For and NOT against Doctor de la Fé)
Example:
Doctor de la Fé is usually fed on slop, brought in by a sadistic guard who first permits one of the numerous pigs kept at the Concentration Camp (in full view of Doctor de la Fé) to eat from the bucket. Then the guard will put into the remains of the slop, one or two dead rats. This is the only food the prisoner is given.

All water given to the prisoner (in the same bucket which he is forced to use to meet the calls of nature) is wall sprinkled with soap flakes. A scholar and writer, he is forced to work twelve or more hours a day, seven days a week, in a rock quarry. If nothing is done to assist him, his death is inevitable. And all of this is happening a hundred and fifty miles or so off the mainland of the United States--not in Europe or Africa or Asia--and no one seems to really give a damn! What kind of people are we anyway?

THE ANTI-COMMUNIST COMMITTEE OF THE AMERICAS-
CARIBBEAN DIVISION
OFFICE OF THE GENERAL COUNSEL SUITE 1672 CLAIBORNE TOWERS
NEW ORLEANS
February, 1960

OPINION OF MAURICE B. GATLIN, GENERAL COUNSEL, AS TO WHETHER OR NOT THE CASTRO GOVERNMENT OF CUBA IS COMMUNISTIC

In rendering an opinion in this matter, I would like to impress upon you the fact that I am a trial lawyer with nearly thirty years experience behind me, that I am neither Conservative or Liberal, but, in matters legal I am concerned solely and only with securing the facts. My own personal feelings are of not the slightest consequence. My opinion is based upon all available facts, and facts that would be admissible as evidence in a court of law under proper conditions.

The primary source of facts is, of course, at the scene by personal investigation. This I have done. At the end of January of last year, the first month in which Fidel Castro was in power, I journeyed to Havana (at my own expense) and in company with my wife, having been requested to go there on behalf of my good friend and a great American Patriot, the Journalist Doctor Ernesto de la Fé. I went to Havana at the request of the family of Doctor de la Fé, of Diputado (Congressman) Manuel Orelanna Portillo of Guatemala and Fleet Admiral Carlos Penna Botto of Brazil, General Treasurer and President, respectively, of the Confederación Interamericana de defensa del Continente, of which group I have the honor to be one of the permanent delegates from the United States of North America. While my wife and myself were in Havana, I was able to make a detailed and factual study of the then "new" Cuban regime. We stayed in Havana some four or five days, (at the Havana Hilton) and the record of our own Embassy will confirm this statement (as will the guest register of the Habana Hilton, if it has not been tampered with by the government in the meantime). Thus, while Havana swarmed with newsmen desperately seeking government permission to visit the notorious La Cabaña prison, domain of the dedicated Argentine Communist "Che" Guevara (and the real "boss" of Cuba), my wife and myself, using documents "manufactured" by me and acting a "Tourists" and with the able assistance of the Patriotic Cuban underground, were able to go in and out of La Cabaña at will (although I freely admit I was scared to death--as an old Caribbean hand, I know the danger) while my dear and faithful wife, knowing nothing of the danger at that time, blythely referred to the ever-present "Barbudos" as "just harmless boys", moving freely among them, often actually grabbing the barrel of the sawed-off machine guns which they all carried and shoving it out of the way (and, with typical female logic, becoming afraid when we finally got on the plane for New Orleans, and I heaved a sigh of relief for the first time for days; she was afraid the Delta Pilot, a veteran aged about sixty, might not know the way to New Orleans!). At any rate, I was able, while my friends of the press cooled their heels awaiting permission to visit La Cabaña, a permission which never came, to make my own factual investigation, not only visiting La Cabaña at will (where more than twelve thousand "war criminals" have been put to death, most without semblance of trial) as well as every other place into which I accidentally "stumbled" as just another drunken "Gringo" tourist. (Actually I have not had a drink for fifteen years; drinking does not mix with this sort of thing.) Thus I base my opinion, first, on my own "on the spot" investigation. Incidentally, it was while we were in Havana that the gallant Major Jesus Sosa made a complete fool of Fidel Castro; he sneered at his "trial" held in a sports arena as a "Roman Circus" --which it was--spat in the faces of his illiterate, non-lawyer "Judges" as he told them that his "trial" was a farce, and that he would be condemned to death whatever the evidence, then sneeringly and with obvious contempt for the captive Fidel Castro, commanded the firing squad that "liquidated" him. His crime: being a regular army officer and obeying orders.

A QUOTE FROM "THE GATLING GUNS AT SANTIAGO" BY JOHN H. PARKER.
PAGES 75 TO 78.

"It would be just as well to add a description of the patriotic Cuban as he was found by the Gatling Gun Detachment during their campaign in behalf of Cuban Independence, in the name of humanity; and this description, it is thought, tallies with the experience of all officers in the expedition.

Tha valiant Cuban! He strikes you first by his color. It ranges from Chocolate yellow through all the shades to deepest black with kinky hair; but you never by any chance see a white Cuban, except the fat, slaak, well groomed, superbly mounted ones in 'khaki', who loaf around headquarters with high-ranking shoulder straps. Theas are all imported from tha United States. They comprise the few** wealthy ones of Spanish descent, who are renegade to their own nativity, and are appealing to the good people of the United States to establish them in their status of master of peons without any overlord who can exact his tithes for tha privilege.

The next thing you notice is the furtive look of the thief. No one has ever yet had a chance to look one of these chocolate-colored Cubans straight in the eye. They sneak along. Their gait has in it something of that of the Apache, the same soft moccasined tread, noiseless and always stealty. Your impression as to their honesty can be instantly confirmed. Leave anything loose, from a heavy winter overcoat, which no one could possibly use in Cuba—to—oh, well, anything—and any Cuban in sight will take great pleasure in dispelling any false impressions that honesty is a native virtue.

Next you notice that he is dirty. His wife does sometimes make a faint attempt at personal cleanliness; this is evident, because in one bright instance a white dress was seen on a native woman, that had been washed sometime in her history. But as to his Lordship, the proud male citizen of Cuba*** Libre, you would utterly and bitterly insult him by the intimation that a man of his dignity ought ever to bathe, put on clean clothes, or even wash his hands. He is not merely dirty, he is filthy. He is infested with things that cra wl, and creep, often visibly, over his half naked body, and he is so accustomed to it that he does not even scratch.

Next you observe the intense pride ofthis Cuban libre. It is manifested the very first time you suggest anything like manual labor—he is incapable of any other—even for such purposes as camp sanitation, carrying rations, or for any other purpose. His manly chest swells with pride, and he explains in accents of wounded dignity "yo soy soldado!" Still his pride does not by any chance get him knowingly under fire. At El Poso some of him (sic) did get under fire from artillery, accidentally, and it took a strong provost guard to keep there. If he ever got under fire again, there was no officer on the firing line who knew it.

He is a treacherous, lying, cowardly, thieving, worthless, half-breed mongrel; born of mongrel spawn of Europe, pressed upon the fetishes of Darkest Africa and aboriginal America. He is* no more capable of self-government than the hottentot that roam the wilds of Africa, or the Bushmen of Australia. He cannot be trusted like the Indian, he will not work like a Negro, and will not fight like a Spaniard; but he will like a Castillian with polished suavity, and he will stab you in the dark or in th eback with all the dexterity of a renegade graduate of Carlisle.

Providence has reserve da fairer future for this noble country than to be possessed by this horde of tatterdemalions. Under the impetus of American energy and capital, governed by a firm military hand with even justice, it will blossom as a rose; and, in the course of three or four generations, even the Cuban may be brought to appreciate the virtues of cleanliness, temperance, industry, and honesty.

*Begin Page 75.
**Begin Page 76.
*Begin page 78.
***Bagin Page 77.

Note: The foregoing is a verbatim quote from the book, "The Gatlings at Santiago," by Lieutenant John H. Parker. The son of Lieutenant Parker, Henry Burr Parker, Colonel, United States Army (Retired) lives at 97 Eucalyptus Lane, Santa Barbara, California, and has one of the few cipies of this book known to exist. It is said that Fidel Castro of Cuba is and has long been a great admirer of the work and life of the late Lieutenant John H. Parker.

Note 2: The events described in this book are so famous that the United States government has made a color production if the scene, same being Department of the Army No. 21-46, on sale at the Government Printing Office, Washington, D. C. for 20c.

LATIN AMERICAN EVENTS

VOLUME ONE, NUMBER TWELVE — WASHINGTON, D. C. — MONDAY, JANUARY 11, 1960

[illegible] DR. EMILIO NUÑEZ PORTUONDO, former President of the Security Council of the United Nations

We [illegible] for [illegible] the patience of our readers, we must persist in describing the picture of Cuba's tragedy to the world, especially to the countries of the *Americas*, and the *United States* in particular.

The Island is a powder keg capable of producing a conflagration of startling proportions unless drastic and energetic action is taken immediately.

We have explained our personal position in previous editions of this newsletter. We cannot be accused of a single violent crime. Not even the most fanatical partisan of Castro can accuse us of having enriched ourselves at the expense of the national treasury. And we do not oppose the Castro regime because we have been victims of confiscation representing significant losses.

We oppose *Castro* because we consider it our duty to *Cuba* and to our people who deserve a better fate. We shall never accept the unfortunate Island's conversion into the branch office of the *Soviet Union* and the *People's Republic of China*.

We are convinced that you have a situation in *Cuba* in which the Cubans themselves, acting alone without outside help, will never be able to liberate themselves. History does not reveal a single case showing that this is possible. Only the contrary is in evidence.

We appeal for support from all men of good will who stand against International Communism. We shall continue to do so since such is our duty, and we shall not slacken our efforts as long as we are physically able — opinions to the contrary do not matter. Whenever moral support has been offered in bad faith and does not tend to liberate *Cuba* from International Communism, we shall consider ourselves free of any compromise. Above all, it is the fate of *Cuba* that concerns us.

We have said that what is dealt with here is the most important problem of all *America*, especially the *United States*, the spearhead of democracy and the anti-Communist movement of *Latin America* and the rest of the world as well.

We have never advocated a return to the past for Cuba, not only because of its impossibility, but because Cuba will not benefit from such a move.

We are aware that a social revolution has been going on in Cuba, which the Communists have directed for their own evil purposes, but which nevertheless, as sometimes occurs in [illegible] cases, has produced certain reforms that previous governments should have proclaimed years ago.

We are firmly convinced that a movement against *Castro* is destined to fail if it does not count on the great masses of people within its ranks. The popular forces in *Cuba* are not and never have been Communists. The people live under a regime of terror and are subjected to a terrible onslaught of propaganda directed by Red specialists, all of which stands in the way of a calm analysis of the serious Cuban problem.

We are surprised at opinions expressed by Cubans to the effect that nothing has happened in our country during the last year. To think that a movement can be set up for the benefit of only one class seems to us to be an error. Much less can we accept the thesis that a class can direct national destinies which in the past has demonstrated that because of its nearsightedness and selfishness it was unable to prevent certain happenings.

We maintain that the Cuban problem consists of the fact that a total Communist regime has been established in the Island, a regime that stands unconditionally at the service of *Moscow* and *Peking*.

A totalitarian police state does not respect any of the fundamental human rights, this occurs in all Communist countries. In the case of *Cuba*, *Fidel Castro* has more illegal power than *Nikita Krushchev*. The power is illegal because it does not rest upon popular elections.

The Communist regime in *Cuba* constitutes a threat to the security of the other American countries, mainly the *United States*. Everyone must take action against this dangerous situation and if they do not, they will have to answer to their respective peoples.

The Cubans will have to practice democracy sincerely, pursuant to the century in which we live. The people must be the true sovereign, and national majorities and also foreign elements should have the opportunity of profiting from our natural resources by the sweat of their brow, as is the custom in all civilized countries.

To think of any other solution is an error. The philosophy of *Castro* will continue to misrule *Cuba* even if the man himself is gone.

Note New Address
SUITE 1672 CLAIBORNE TOWERS
NEW ORLEANS, LOUISIANA
TELEFONO TUlane 2334

NEWS AND COMMENT

UNITED STATES—Florida newspapers have published the following report sent in by their correspondents:

> Havana, January 1—If Castro Cuba could it probably would reverse a decision of U. S. District Court Judge *Joseph Lieb* of Miami, Florida.
>
> The nation was absolutely wrong the foreign ministry said, yesterday, in refusing to extradite two Cubans who fled to Miami after being convicted of murder. The Ministry quoted Miami newspapers on the ruling and said it had not yet received official notice.
>
> Lieb [illegible] Cuba's extradition request against *Humberto Rodriguez Diaz* and *Roberto Perez Cruzata* on grounds the crime involved was political in nature.
>
> The judge said "Whether it is a political crime or not is to be determined at the time it was committed, and not by the motives of those who handle the prosecution."
>
> The Foreign Ministry said Cuba would continue to seek all extraditions it deems necessary."

No self-respecting judge in a civilized country of the world would grant an extradition request made by the bloody and Communistic regime of *Fidel Castro*.

You cannot surrender a human being to a fate waiting for him from a government that has no constitution, that does not recognize the right of habeas corpus, that makes summary decisions in a court not even presided over by law-trained judges, that has suppressed the right of appeal—a government in which the Tyrant Fidel Castro is the Executive, Legislative and Judicial Powers all wrapped up in one.

Informan Cuba Recibe Armas de Rusia

Carta Pública de Maurice B. Gatling al Redactor Del "Times Picayune" George Healey

NUEVA ORLEANS. (Por aéreo).— Al Asesor General del Comité Anticomunista para la Defensa de las Américas, División del Caribe, Maurice B. Gatling, ha denunciado por medio de una enérgica carta pública dirigida al Director del **Times Picayune** de esta ciudad, George Healey, autor de la invitación de Fidel Castro a los Estados Unidos, que mientras Castro era agasajado por Healy, "o poco tiempo después, por lo menos un submarino de nacionalidad desconocida, salió a la superficie cerca de de las costas de Cuba, desembarcando a algunos técnicos y armas atómicas o de hidrógeno".

Gatling relaciona este hecho con un posible ataque nuclear comunista a los Estados Unidos desde Cuba en un momento de aguda crisis.

El texto de la carta, que el Comité Anticomunista para la Defensa de las Américas está haciendo circular profusamente es el siguiente:

THE ANTI-COMMUNIST
COMMITTEE OF THE
AMERICAS
Suite 1672 Claiborne Towers,
New Orleans, Louisiana.

Personal.

Sr. George Healy, Redactor,
New Orleans Times Picayune,
165 North Street,
New Orleans, Louisiana.

Estimado Sr. Healy:

Hace unos días recibí su carta sobre Fidel Castro, el Carnicero Cubano, quien vino a los Estados Unidos, invitado por usted como Presidente de la Asociación Americana de Directores de Periódicos, sin antes haberlo consultado con sus miembros. Recibí también la copia mimeografiada de sus propias declaraciones cuando presentó a Castro, y estoy seguro de que si usted las estudiara cuidadosamente, estará de acuerdo conmigo en que no sólo son de mal gusto y mal escritas, sino que también constituyen un "babieso" tan insubstancial hacia este asesino, que de haberlo dicho cualquier reportero de su periódico, usted lo **hubiera cancelado** inmediatamente.

Como usted sabe, Fidel Castro ya se apoderó, o ha anunciado su intención de apoderarse, de todas las propiedades que pertenecen a ciudadanos de los Estados Unidos, en Cuba. Usted y yo sabemos que, si no hubiera sido por su gira triunfal de nuestro país, a su invitación, nunca hubiera tenido la estatura política que le ha permitido emprender este programa netamente comunista. Por consiguiente, las propiedades que perderán nuestros ciudadanos, y las vidas de nuestros ciudadanos que serán asesinados, ocurrirán por la responsabilidad de un hombre, sí, de un solo hombre, el Sr. George Healy, del New **Orleans Picayune.**

Si Ud. quería ver un asesino...

Permítame que le diga lo que le he dicho en anteriores ocasiones: Usted tuvo pleno derecho legal para obrar como obró, y yo sería el primero en ayudarle si alguien tratara de evitar que usted ejerciese ese derecho, hasta el punto de la irresponsabilidad (como, según mi opinión, hizo usted en este caso), al igual que yo tengo el pleno derecho de expresar mi opinión. Usted me escribe que el "Consejo" de su organización "aprobó" su acción al invitar a Castro. Pero, permítame que le pregunte, ¿quién es el que trata de engañar a quien? **Usted dice que quiso "echar una mirada" a Fidel Castro. Como abogado, conozco a muchos asesinos, y si usted tenía interés en echar una mirada a un asesino, yo hubiera tenido mucho placer en arreglar las cosas para que usted pudiera haber echado una mirada a unos cuantos de nuestros productos nativos en la penitenciaría de Angola.**

Al hacer estas declaraciones, creo que las hago con cierta autoridad. Como abogado, he sido adiestrado para tratar de averiguar la verdad, en donde fuese; en el caso, en Cuba, bajo Fidel Castro. Por lo que yo sepa, usted no ha estado en Cuba bajo el gobierno comunista que actualmente gobierna dicho país, o por lo menos, en la época en que usted, con tanto descaro, envió su invitación, la que, por razones de protocolo, **mantuvo alejado** del Capitolio de nuestra nación, en un momento peligroso, al Presidente de los Estados Unidos. Y permítame que agregue que las verdades, tal como yo las encontré (con no poco sacrificio económico para mí mismo y el peligro

gue a sus manos, y no termine en el "archivo N° 13". No es "personal" en el sentido de que no esté en plena libertad de mostrarla a quien guste. Yo personalmente, odio la reserva y odio la censura en el campo de la política. (Indico una limitación sólo por el hecho de que algunos asuntos científicos han de ser mantenidos en secreto, a ser posible, por nuestra propia seguridad.

La República de Cuba, dominada por los comunistas, está sólo a dos horas de vuelo (en avión comercial) de nuestra ciudad, la que se jacta de ser el "portal" para la América Latina. (Y, naturalmente, usted y yo sabemos que es una jactancia vana; Miami, Houston y hasta Dallas nos llevan la delantera en ese campo. Por un lado, los latinoamericanos gustan de leer las noticias en su propio idioma, cosa que no pueden hacer con el **Times Picayune**, o hasta con el satélite cautivo de éste, el States-Item, que mantienen un monopolio sobre las noticias en Nueva Orleáns). Y sin embargo, el gran **Times Picayune**, cuyo redactor ya tiene que ejercer gran influencia con Fidel Castro, ni siquiera desea enviar un corresponsal a Cuba para reportar las noticias de dicho país. Hemos de fiarnos de los servicios telegráficos, la radio y la televisión, o de las revistas noticieras de mucho prejuicio, como **Time** y Cía., para averiguar lo que viene sucediendo a sólo dos horas de nuestra ciudad.

Estoy seguro de que ha de tomar esta carta con el espíritu en que está escrita. Estuvo usted libre para "echar una mirada" al comunistoide Fidel Castro. Asimismo, yo no tengo la obligación de aprobar su acción, ni tampoco se me puede negar el derecho de comunicarse lo que opino de la misma, y lo que creo opinan todos aquellos americanos que se han enterado del asunto. Voy a enviar una copia de la presente carta al Sr. Charles Lewin, director de un periódico responsable de New Bedford, Massachusetts, un hombre intrépido y honorable que sigue las grandes tradiciones en la administración de un periódico. Con toda franqueza, lamento sinceramente, como tengo pleno derecho de lamentar, que no le tenemos en Nueva Orléans. No le conozco personalmente, pero he tenido la oportunidad de leer su periódico y sus editoriales, y he llegado a la conclusión de que sigue la tradición de "Marse" Henry Waterson, de Grady, de Greeley, de Hearst y de McCormick. Nadie puede confundir su periódico con el **Daily Worker** o con **Pravda**. (No quiero decir con esto que coloco al **Times Picayune** en la misma categoría que el **Daily Worker** o **Pravda**; sólo quiero decir que, al parecer, el Sr. Lewin mantiene viva cierta parte de aquel espíritu de cruzada que hizo grandes los periódicos de nuestra nación —un espíritu de cruzada que, en mi opinión, falta por completo en el **Times Picayune**: una opinión que es la mía propia y a la que tengo pleno derecho).

Con mis mejores votos, quedo de usted,

Sinceramente,

Charles B. Gatling,
Asesor General.

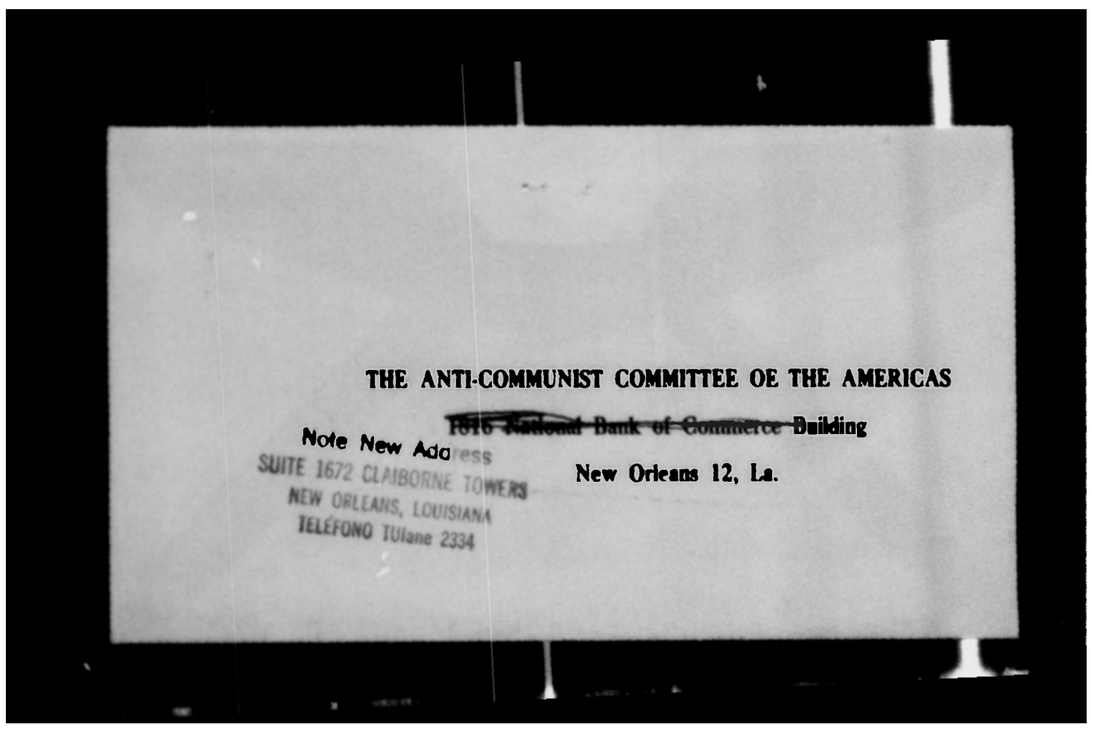
de la violencia física) han sido plenamente confirmadas por el Sr. Stuart Novins (a quien yo no conozco) de la Columbia Broadcasting System. Y si usted quiere molestarse en averiguar algo sobre mi historia personal, ha de averiguar que yo no soy, ni he sido nunca, el "secuaz servil" de nadie; que yo pagué mi propio viaje a Cuba; que yo no soy ni jamás he sido partidario del anterior (y menos importante) dictador de Cuba, el ex Presidente Fulgencio Batista, a quien nunca he conocido. Mis motivos no eran otros sino los del rancio patriotismo, del amor a nuestro país, motivos que, hoy día, al parecer, tanta gente mira como cosas pecaminosas.

Armas atómicas en Cuba comunista

Una vez, el **Times Picayune** era un gran periódico. Desde mis primeros días como abogado que se dedica a la política, nunca he sido uno de aquellos que hablan irresponsablemente de los "periódicos embusteros". Por otro lado, creo que es usted quien ha cometido el clásico desatino de la era peligrosa en que vivimos. Al menos, teóricamente, su negocio es el de obtener y publicar noticias objetivas en beneficio de la gente a la que sirve y la que compra su periódico. **Mientras que usted estaba "echando una mirada" al asesino Castro, o poco tiempo después, por lo menos un submarino (de nacionalidad desconocida) salió a la superficie cerca de las costas de Cuba, desembarcando a algunos técnicos y armas atómicas o de hidrógeno.** Yo sé que esto es cierto, y cualquier buen corresponsal hubiera podido averiguar muchos más datos acerca del particular. Yo no he visto que se haya mencionado el asunto en el Times Picayune, el periódico de su propia responsabilidad. Naturalmente, sólo puedo especular acerca de cómo y cuándo dichas armas han de ser utilizadas. De todas maneras, la razón me dice que no hacen falta para la defensa del Caribe, y que son demasiado caras y difíciles de conseguir para ser empleadas contra ningún país en el Caribe o en Centro América. Sólo queda, pues, un blanco: nuestros propios Estados Unidos. ¿Le suena eso disparatado? Bueno, le sugiero que se dedique usted a leer algo de historia, tomando en consideración que las armas atómicas y de hidrógeno constituyen los grandes "niveladores" de nuestra época, y que Fidel Castro, una persona errática con delirio de grandeza, no tendría el más mínimo reparo en utilizarlas —mientras que nuestra atención estuviera puesta en otra "crisis" distante muchos miles de millas. No obstante, no cabe mucha posibilidad de que a Castro le sea permitido disfrutar de dicha ocasión. Ya casi terminó de servir su finalidad, y ya puede ser desechado. Para Ernesto "Che" Guevara, Raúl Castro y Celia Sánchez, todos marxistas dedicados, Fidel Castro es un estúpido, y sólo un "frente" útil interino. "Che" Guevara, y no Fidel Castro, es el verdadero gobernante de Cuba.

La actitud [illegible] de Haley

Quiero llamarle la atención al hecho de que la presente carta lleva la indicación "personal" con el solo fin de que lle-

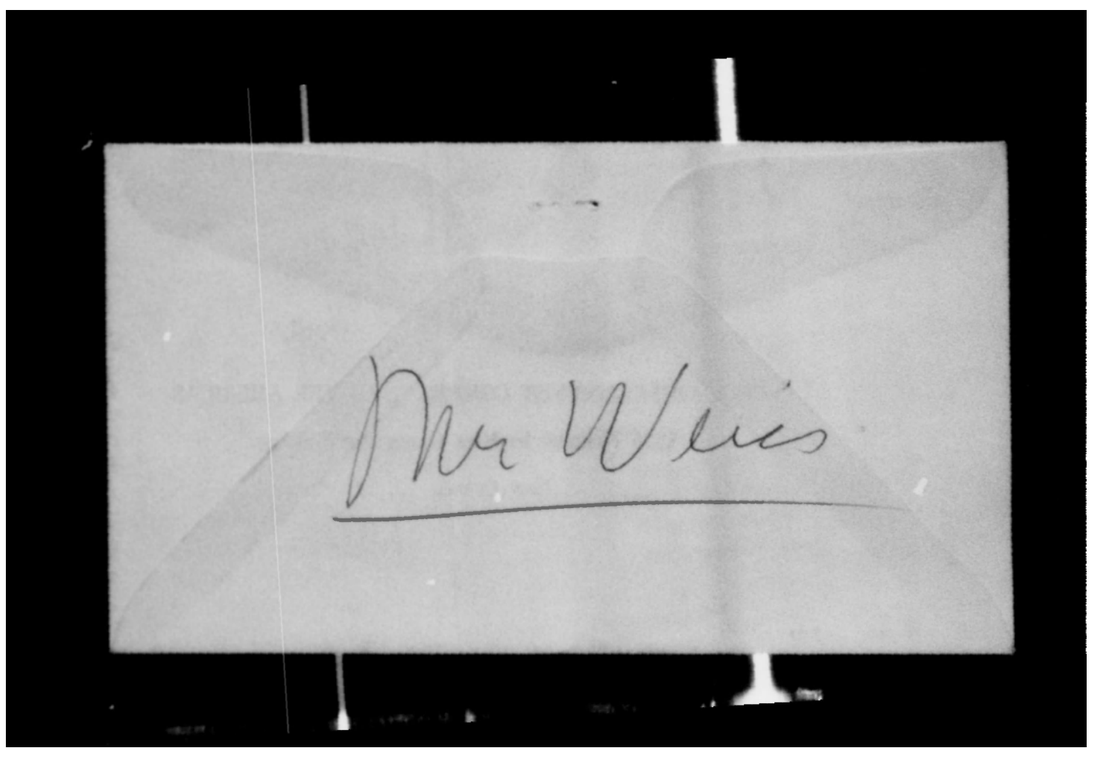


THE ANTI-COMMUNIST COMMITTEE OE THE AMERICAS

~~1616 National Bank of Commerce~~ Building

New Orleans 12, La.

Note New Address
SUITE 1672 CLAIBORNE TOWERS
NEW ORLEANS, LOUISIANA
TELEFONO TUlane 2334


Mr Wells

ADMINISTRATIVE FILE

Appalachian State Teachers College
x McFarland, J. B.
x Pilot Freight Carriers

December 26, 1961

Mr. Albert Dietrich, General Organizer
International Brotherhood of Teamsters
401 Third St., N. W.
Washington, D. C.

Dear Sir and Brother:

I am in receipt of your letter dated December 20, 1961 concerning the circular distributed at Pilot Freight Carriers by a studen from the Appalachian State Teachers College.

Would you kindly investigate this matter and find out what this was for and also determine whether or not a copy of the study can be obtained for us.

Fraternally yours,

James R. Hoffa
General President

JRH/yk

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
CHAUFFEURS · WAREHOUSEMEN & HELPERS
OF AMERICA

December 20, 1961

Mr. James R. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N. W.
Washington 1, D. C.

Dear Sir and Brother:

Enclosed circular was distributed at Pilot Freight Carriers by a student named J. B. McFarland from Appalachian State Teachers College, Boone, North Carolina.

This is for your information.

Fraternally yours,

Albert Dietrich

Albert Dietrich
General Organizer

AD/gl

SELECTED DATA SURVEY

The foregoing questions are part of an intellectual survey in Applied Psychology and will have no repercussions on your present status. All information with regard to the listed material will be considered strictly confidential. Please check YES or NO.

	YES	NO	
1.	___	___	Do you think that Jimmy Hoffa's power over the Teamsters Union is too great?
2.	___	___	Do you think that his power should be curbed?
3.	___	___	Is the Teamsters Union too large: your opinion?
4.	___	___	Do you feel that the Teamsters Union best serves the interests of its members?
5.	___	___	Do you feel all elections conducted by the union are honest?
6.	___	___	Do you feel that the last contract negotiated by your local union was in the best interest of all its members?
7.	___	___	If the above question is answered no, are you satisfied with the contract?
8.	___	___	President Kennedy has asked that union wages remain at the present level; are you willing to go along with the suggestion?
9.	___	___	Do you feel that your local union follows with greater exactness the principles of the Teamster's Constitution than does the National Union?
10.	___	___	If a move developed to leave the Teamsters and to form smaller independent unions, would you remain with the Teamsters under present operating conditions?

ADMINISTRATIVE FILE

Arab Review

X

X

Press Intelligence, Inc.
WASHINGTON 1, D. C.

EUGENE (Ore.)
REGISTER-GUARD

Circ.: e. 33,987
S. 34,037

Front Page | Edit Page | Other Page

Date: AUG 24 1960

Today's Arab

What [illegible] of Point Four aid has Nasser been [illegible]? Has the Teamsters' Union been helping the president of the United Arab Republic with his public relations?

For quite some time we have been counting the pictures, first of Dave Beck and later of Jimmy Hoffa, in the [illegible] Teamster, the union's magazine. Usually a dozen or more of the "Chief" are printed in each issue.

Well, now along comes Arab Review, a publicity booklet put out at intervals in Cairo. It contains 20 pictures of Nasser and two pictures of pictures of Nasser.

Oh, and guess who's on the cover?

ADMINISTRATIVE FILE

Arauz, Brigido B.
X Torres, Nicanor V.
X Union Casualty Co.

January 14, 1964

Mr. Frank Chavez, Sec.-Treas.
Teamsters Local Union No. 901
Ponce de Leon Esq. Dauffaut - 3rd Floor
Stop 19
Santurce, Puerto Rico

Dear Sir and Brother:

The enclosed is self-explanatory.

Would you kindly contact Senor Torres and give him the information contained in Vice-President Fitzsimmons's communication to this office.

Fraternally yours,

James R. Hoffa
General President

JRH/mc

Enclosure

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

CHAUFFEURS · WAREHOUSEMEN & HELPERS

OF AMERICA

MAIN AND PRINCIPAL OFFICE. 2801 TRUMBULL AVENUE. DETROIT 16. MICHIGAN

• FRANK FITZSIMMONS •
INTERNATIONAL VICE PRESIDENT
2741 TRUMBULL AVENUE
DETROIT 16 MICHIGAN

January 13, 1964

Mr. James R. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N. W.
Washington 1, D. C.

Dear Sir and Brother:

In reference to yours of December 12, 1963, re: Brigido B. Araud, please be advised that I have investigated this situation and have come up with no information whatsoever.

I have check with Ypsilanti State Hospital and he is not a patient of theirs. If there is anything further on this matter, please advise.

Thanking you, I remain

Fraternally yours,

Frank E. Fitzsimmons

Frank E. Fitzsimmons
Vice-President

FEF/ec

ADMINISTRATIVE FILE

Aranol, Brigido B.
x Torres, Nicanor V.
x Union Casualty Co

December 12, 1963

Mr. Frank E. Fitzsimmons, Vice President
International Brotherhood of Teamsters
2741 Trumbull Avenue
Detroit, Michigan

Dear Sir and Brother:

The enclosed communication is self-explanatory.

Would you kindly investigate this matter and report to the National Office.

Fraternally yours,

James R. Hoffa
General President

JRH/jh
Enclosure
Gibbons

NICANOR VAZQUEZ TORRES
Abogado - Notario
Apartado 601 - Tel. 525
HUMACAO, PUERTO RICO

HUMACAO, PUERTORICO
NOVEMBER 30, 1963

JAMES R. HOFFA
MICHIGAN CONFERENCE
OF TEAMSTERS
2941 Truabul Avenue
Detroit16,Mich.

Dear Sir.

Brigido B. Araud.a member of yours Union,Michigan Conferenceof Teamsters Welfare. during the years 1950-1961, thia laborer suffer an accident in his work in the year 1957,was been hospitalized in UPSILANTI STATE HOSPITAL,

He was insured with the UNION CASUALTY COMPANY AND UNION CASUALTY AND LIFE INSURANCE COMPANY,

At prosent Brigido B.Araud,has never received the benefits under the Policy protection.

Please inform me about this case nad your notice be grateful grateful received.

Truly yours,

NICANOR VAZQUEZ TORRES

International Brotherhood of
TEAMSTERS, CHAUFFEURS
WAREHOUSEMEN & HELPERS of America

DAVE BECK
General President

AFFILIATED WITH AMERICAN FEDERATION OF LABOR

100 INDIANA AVENUE N. W. • WASHINGTON 1, D. C. • STERLING 3-0525

ADMINISTRATIVE FILE

Are Independent
Contractors Really
Independent

May 19, 1954

To all Local Unions, Joint
Councils, Area Conferences
and State Conferences

The enclosed pamphlet entitled "ARE INDEPENDENT CONTRACTORS REALLY INDEPENDENT", created considerable discussion on the part of owner-operators of vehicles, and was brought to the attention of the General Executive Board at its meeting in Miami, Florida early this year. This copy is being forwarded for your information.

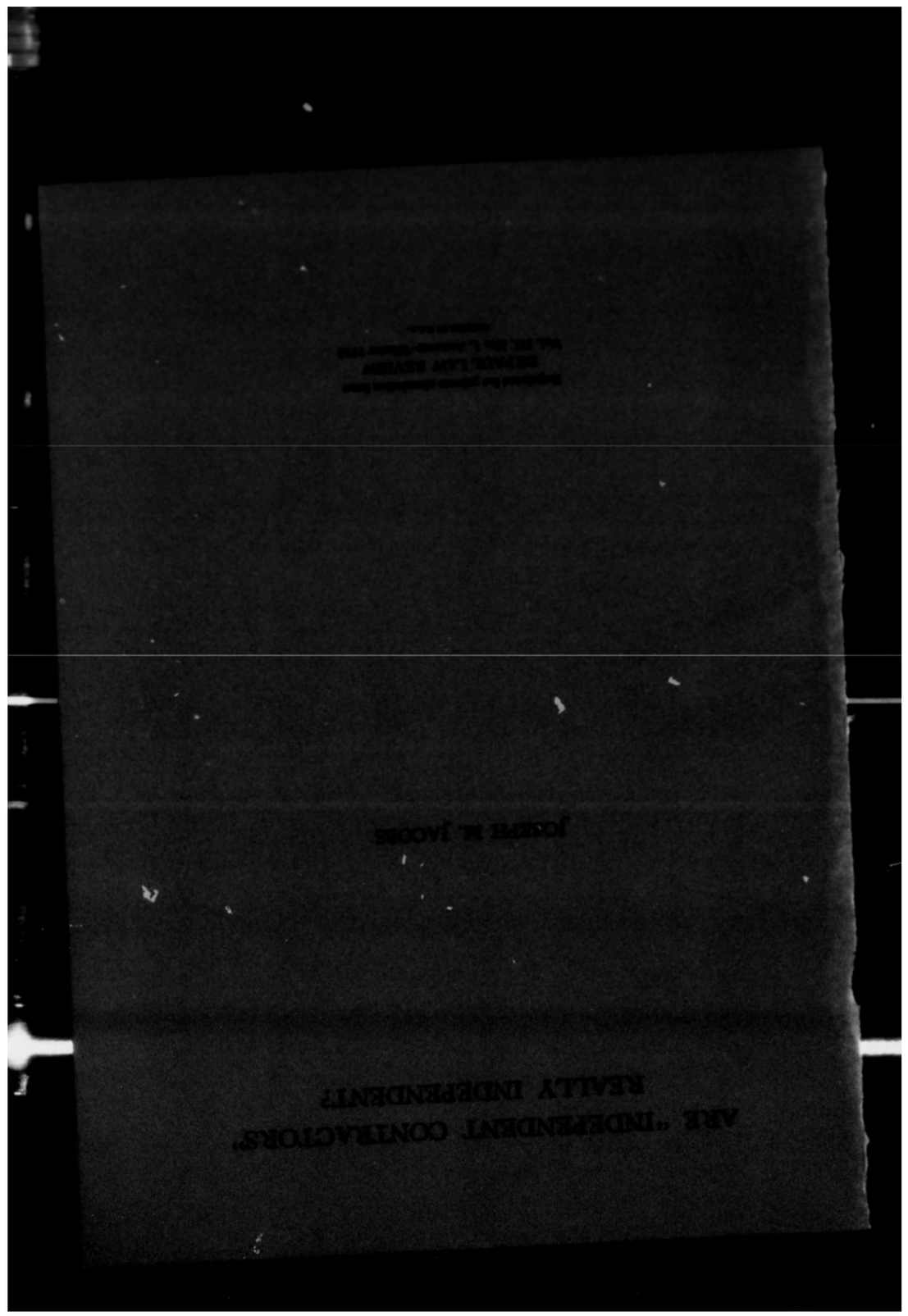
Should additional copies be desired, a limited number are available upon request

Fraternally,

Einar O. Mohn
Assistant to the
General President

EOM:br
Enc.

AP10-1100
5/54



DAVE BECK
General President

International Brotherhood of
TEAMSTERS, CHAUFFEURS
WAREHOUSEMEN & HELPERS of America
AFFILIATED WITH AMERICAN FEDERATION OF LABOR

100 INDIANA AVENUE, N. W. • WASHINGTON 1, D. C. • STERLING 3-0525

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Fraternally,

Einar O. Mohn

Einar O. Mohn
Assistant to the
General President

EOM:br
Enc.

P-2016-

A "IND END T TRACT RS" RE LY I EPI NT?

JOSE . JA

"W en I use a word," umpty Dum said in a s ul tone, it means just what I choose it u eithe m re nor less."

"The q is, said Alic vheth n make ie words mo ny ifferent th "

"The qu is said Hu Du which is the master—that's "

ew Car ugh king Glass.

In recent years the concept of independent contractorship has been invoked in an infinite variety of fact situations under many federal and state statutes and in connection with innumerable non-statutory causes of action. Characteristically, such situations have dealt with public and private rights and duties arising out of the relationships between employers and employees or between either or both of them and third parties. In most instances, there have been concerted efforts by affected employers to exclude any person classifiable as an independent contractor from the operation of the particular law involved in the case. The independent contractor has thus become a kind of legal orphan in the field of modern labor law. This problem of the status of the independent contractor under modern social and labor legislation is no mere matter of abstract speculation. Even a cursory reference to current administrative and judicial decisions reveals that the question of "inclusion" or "exclusion" affects hundreds of thousands of persons performing services in many different industries.

The complexity of the problem is seen in better perspective when it is realized that, currently, there are no less than seventy-five federal

Mr. Jacobs is associated with the law firm of Jacobs, Kamin, and Ratner, in Chicago, Illinois. He received his B.A. from Syracuse University and his J.D. from John Marshall College of Law. He is a member of the American, Illinois, and Chicago Bar Associations, and has been admitted to practice before the United States Supreme Court and various state supreme courts, including that of Illinois. He is general counsel and attorney for many international and local labor unions affiliated with the American Federation of Labor.

and state statutes under which it is primarily necessary to ascertain whether an affected person is an employee or an independent contractor. The list of such federal laws and typical state statutes dealing with many varieties of social and labor problems is set forth in the footnote.[1]

1 *Federal Statutes*

Fair Labor Standards Act of 1938: 52 Stat. 1060, as amended, 29 U.S.C.A. § 201 (1947).
Social Security Act: 49 Stat. 620 (1935), as amended, 42 U.S.C.A. § 301 (1952).
Wash-Healey Act: 49 Stat. 2036 (1936), as amended, 5 U.S.C.A. § 616 (1950), 41 U.S.C.A. § 35 (1952).
Davis-Bacon Act: 46 Stat. 1494 (1931), 40 U.S.C.A. § 276a (1952).
Internal Revenue Code: withholding tax provisions, 52 Stat. 508 (1938), as amended, 26 U.S.C.A. § 143 (1945), 26 U.S.C.A. §§ 1621–27 (1948).
Sherman Anti-Trust Act: 26 Stat. 209 (1890), 15 U.S.C.A. § 1 (1951).
Clayton Anti-Trust Act: 38 Stat. 730 (1914), 15 U.S.C.A. § 12 (1951).
National Labor Relations Act: 49 Stat. 449 (1935), as amended, 29 U.S.C.A. § 151 (1947).
Norris-LaGuardia Act: 47 Stat. 70 (1932), 29 U.S.C.A. § 101 (1947).
Employers' Liability Acts: railroads, 34 Stat. 232 (1906), 45 U.S.C.A. § 51 (1943).
Arbitration: generally, 9 U.S.C.A. § 1 (1942).
Holidays: government employees, 5 U.S.C.A. § 86 (1950), 26 U.S.C.A. § 1622 (1948).
Alien Contract Labor Laws: 23 Stat. 332 (1885), 8 U.S.C.A. § 141 (1942).
Anti-Racketeering Act: 48 Stat. 979 (1934), 18 U.S.C.A. § 1951 (1951).
Lea Act: radio-coercive practices, 60 Stat. 89 (1946), 47 U.S.C.A. § 506 (1953).
Railway Labor Act: 44 Stat. 577 (1926), 45 U.S.C.A. § 151 (1943).
Byrnes Act: transporting strike-breakers, 49 Stat. 1899 (1936), 18 U.S.C.A. § 1231 (1950).
Farm Labor Supply Appropriation Act: Wet-Back Law, 57 Stat. 11 (1944), 50 U.S.C. App. § 1352 (1951).
Selective Training and Service Act of 1940: 54 Stat. 885, 50 U.S.C.A. App. § 301 (1951).
National Guard Mobilization Act of 1940: 54 Stat. 858, 50 U.S.C.A. App. § 401 (1951).
Reemployment of Merchant Marine Members: 57 Stat. 162 (1943), 50 U.S.C.A. App. § 1471 (1951).
Service Extension Act of 1941: 55 Stat. 626, 50 U.S.C.A. App. § 303 (1951).
Womens Army Corps Act: 57 Stat. 371 (1943), 50 U.S.C.A. App. § 1551 (1951).
Universal Military Training and Service Act: 65 Stat. 75 (1951), 50 U.S.C.A. App. § 451 (Supp., 1952).

Illinois Statutes

Unemployment Compensation Act: Ill. Rev. Stat. (1951), c. 48, §§ 300–820: "Employer," § 315; "Employment," § 316.
Workmens Compensation Act: Ill. Rev. Stat. (1951), c. 48, § 138.1–138.28: "Employer," § 138.1(a); "Employee," § 138.1(b).
Definitions of "Employee" can also be found: Ill. Rev. Stat. (1951), c. 7[illegible], § 1009; c. 24[illegible], § 155; c. 127, § 217; c. 144, § 83.
Maximum Hours Act: Ill. Rev. Stat. (1951), c. 48:
Limitations on hours of labor of females, § 5,
Hours of work, Child Labor Laws, § 31.1.
Minimum Wage Laws: Ill. Rev. Stat. (1951), c. 48:
Minimum wage standards for women and minors, §§ 198.1–216(d).
Employment Agency Laws: Ill. Rev. Stat. (1951), c. 48:
Employment Offices and Agencies, § 172(a)–(e);

BASIS FOR EXCLUSION OF INDEPENDENT CONTRACTORS

As above noted, it has become customary to exclude independent contractors from the operation of these statutes. This practice of exclusion which has now become universal is apparently premised on the assumption that an independent contractor plays an entrepreneurial role in our economic society and that he must be kept in a separate category beyond the reach of federal and state regulations affecting the employer-employee relationship. Even the socio-legal architects of the New Deal accepted this principle and refused to assimilate the independent contractor to the employee as a person to whom the protective provisions of the New Deal legislation should apply. This universal exclusionary practice has not been criticized or contested by any recognized legal or economic authority. There is obvious agreement that in any context, federal and state laws applicable to employees should not be applicable to self-employed entrepreneurs or similarly

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Public Employment Offices and Agencies, §§ 173–186;
Private Employment Agencies, § 197(a)–(o).
Voting Time Laws: Ill. Rev. Stat. (1951), c. 46, §§ 7–12, 17–15.
Not-For-Profit Corporation Laws: Ill. Rev. Stat. (1951), c. 32:
Corporations not for pecuniary profit, § 163(a)–(a_{100});
Religious Corporations, §§ 164–187.
Boycott, Blacklist: Conspiracy to establish, Ill. Rev. Stat. (1951), c. 38, § 139.
Criminal Statutes: Secondary Boycott and Extortion, Ill. Rev. Stat. (1951), c. 38, §§ 240, 241, 242, 243, 244, 245, 246.
Yellow Dog Contract Laws: Prohibited, Ill. Rev. Stat. (1951), c. 48, § 2(b).
Arbitration Laws: Ill. Rev. Stat. (1951), c. 10.
Health and Safety Act: Ill. Rev. Stat. (1951), c. 48, § 137.1–137.21.
One Day Rest In Seven Law: Ill. Rev. Stat. (1951), c. 48, § 8(a)–(h).
Holidays: Ill. Rev. Stat. (1951), c. 98, §§ 18-20(b).
Payment of Wages Due Employees: Ill. Rev. Stat. (1951), c. 48, §§ 32–39(m).
Convict Labor Acts: Penitentiaries, Ill. Rev. Stat. (1951), c. 108:
Requesting employment of convicts and disposition of their products, §§ 74–102;
Convict labor on public roads, §§ 103–104.
Wage Assignment Laws: Ill. Rev. Stat. (1951), c. 48, §§ 39.1–40.
Garnishment Laws: Ill. Rev. Stat. (1951), c. 62.
Union Label Laws: See "Trademarks," Ill. Rev. Stat. (1951), c. 140.
Legal Aid Laws: See Ill. Rev. Stat. (1951), c. 38, § 730–730(a); c. 33, § 5.

Other States

For compilation of statutory enactments concerning labor relations, conciliation and mediation, and arbitration, see Prentice-Hall, Labor Service, Vol. 3. For example, see references therein to various state acts affecting employer-employee relations not hereinabove designated, particularly, various state labor relations acts. For similar compilations also see other loose leaf labor publications, such as, CCH Labor Law Reporter and Bureau of National Affairs Labor Law Reporter.

classified individuals who earn their livelihood as independent businessmen of one kind or another. The latter are clearly outside the societal groups to which these federal and state enactments were intended to be applied.[2]

Of course, in effectuating these exclusions, there has been the widespread assumption that an independent contractor is clearly identifiable and that his status in our jurisprudence is readily distinguishable from that of an employee. Thus, the Committee on Education and Labor of the House of Representatives in submitting its Report on H.R. 3020, Labor-Management Relations Act (1947), could be quite positive that

> An 'employee' according to all standard dictionaries, according to the law as the courts have stated it, and according to the understanding of almost everyone . . . means someone who works for another for hire. . . . In the law, there always has been a difference, and a big difference, between 'employees' and 'independent contractors.' 'Employees' work for wages or salary under direct supervision. 'Independent contractors' undertake to do a job for a price, decide how the work will be done, usually hire others to do the work, and depend for their income not upon wages, but upon the difference of what they pay for goods, materials, and labor and what they receive for the end results, that is, upon profits.[3]

Accordingly, the House proposed the provision later included in Section 2 (3) of the Labor-Management Relations Act, as amended, that "The term employee shall include any employee . . . but shall not include any individual having the status of an independent contractor."[4] Subsequently, the House Conference Committee reaffirmed this point of view.[5]

The amendment as proposed in the House version was ultimately adopted. Significantly, Congress did not enact any legislative definition of the term "employee" or "independent contractor."

The same terms in other federal statutes were also left undefined. In the Fair Labor Standards Act, Congress described an employee as any individual employed by an employer,[6] nor did the Social Security

[2] United States v. Silk, 331 U.S. 704, 718 (1947); NLRB v. Hearst Publications, Inc., 322 U.S. 111 (1944).

[3] NLRB, 1 Legislative History of Labor-Management Relations Act of 1947, at 309 (1948).

[4] Ibid., at 35.

[5] Ibid., at 536.

[6] 60 Stat. 1095 (1946), 29 U.S.C.A. § 203(E) (1947).

Act define any distinction between an employee and an independent contractor.[7]

Unfortunately, the problem of identifying the independent contractor in our industrial society is not a simple mechanical problem. The congressional assumption that there is always available some "simple, uniform and easily applicable test . . . to determine whether persons doing work for others fall in one class or the other"[8] is simply not true.

CURRENT CHAOS IN CASE LAW

There are literally thousands of decisions issued by American and English courts revealing an infinite number of varying and inconsistent applications of the tests designed to determine whether or not an individual is an employee. There have been few legislative concepts which have been applied more varyingly or inconsistently. As Justice Rutledge stated,

> Few problems in the law have given greater variety of application and conflict in result than the cases arising in the borderland between what is clearly an employer-employee relationship and what is clearly one of independently entrepreneurial dealing. . . . It is enough to point out that, with reference to an identical problem, results may be contrary over a very considerable region of doubt in applying the distinction depending upon the state or jurisdiction where the determination is made, and that within a single jurisdiction a per-

[7] 49 Stat. (1935), as amended, 42 U.S.C.A. § 301 (1952). The congressional state of mind which motivated the amendment in the Taft-Hartley Act also subsequently motivated amendment to the Social Security Act by the so-called Gearhart Resolution, 80th Cong. (Pub. L. No. 642, June 14, 1948), 62 Stat. 438. That Resolution designed to preserve the "status quo," provided that the term "employee" in the Social Security Act should not include (1) any individual who under the usual common law rules applicable in determining the employer-employee relationship has the status of an independent contractor, and (2) any individual (except an officer of a corporation) who is an employee under such common law rules.

[8] NLRB v. Hearst Publications, Inc., 322 U.S. 111 (1944). In various state Unemployment Compensation Acts statutory definitions commonly known as "ABC" tests have been inserted. These tests were designed to establish when services performed are deemed to be employment. In general, services are deemed to be employment unless they are free from control or direction, are performed outside the "employer's" usual course of business, and are performed by an individual customarily engaged in an independently established trade, occupation or business. However, there has been a marked tendency to subordinate the independent calling test to the control test. Many courts have failed to fully apply all of the statutory tests. In fact, many courts have regarded the three-test provision in a perfunctory manner: e.g., Singer Sewing Machine Co. v. Industrial Commission, 104 Utah 175, 134 P. 2d 479 (1943); Moorman Mfg. Co. v. Industrial Commission, 241 Wis. 200, 5 N.W. 2d 743 (1942). See cases cited, Teple, The Employer-Employee Relationship, 10 Ohio St. L. J. 153 (1949).

son who for instance, is held to be an 'independent contractor' for the purpose of imposing vicarious liability in tort may be an 'employee' for the purposes of particular legislation, such as unemployment compensation. See, e.g., *Globe Grain & Milling Co. v. Industrial Commission*, 98 Utah 36. In short, the assumed simplicity and uniformity, resulting from application of 'common-law standards,' does not exist.[9]

In view of the utterly indescribable confusion in this field of the law, the doctrinaire assertions of the congressional lawmakers[10] appear to be inexplicable. Many competent legal scholars have graphically dealt with this problem. Many law review articles have fully considered the complete failure of the various "common law" tests to establish any degree of uniformity in the decided cases.[11]

This point has been so well established that the citation of individual cases hardly seems necessary. In the federal cases many groups performing services of one kind or another have been classified as employees and independent contractors despite the similarity of their respective working patterns in the contradictory cases. This has been true of miners, lumbermen, trappers, fishermen, newsboys, laundry drivers, bakery drivers, milkwagon drivers, salesmen, filling station operators, truck drivers, taxicab drivers, entertainers and many others. In the state cases the contradictory rulings with reference to identical work patterns are far more numerous, simply because there are far more cases. Even the Fuller Brush man has been variously classified as an employee and an independent contractor. This is one of the more incredible instances in view of the minute regulation to which these salesmen are subjected in the various subdivided regions throughout the country.

ANALYSIS OF CURRENT TESTS: RIGHT OF CONTROL

In the *Restatement of The Law of Agency*, published in 1933, an attempt was made to codify the definitive elements of employment in connection with the determination of liability in tort actions. Significantly, however, the control test was given primary consideration,

[9] 322 U.S. 111, 120 (1944).

[10] NLRB, Legislative History of Labor-Management Relations Act of 1947, op. cit. supra notes 3, 4, 5.

[11] See, e.g., Stevens, The Test of the Employment Relation, 38 Mich. L. Rev. 188 (1939); Leidy, Sale[illegible]en as Independent Contractors, 28 Mich. L. Rev. 365 (1938); Steffen, Independent Contractor and the Good Life, 2 Univ. Chi. L. Rev. 501 (1935); N.Y. Law Revision Commission Report, Legislative Document No. 65 (K) (1939).

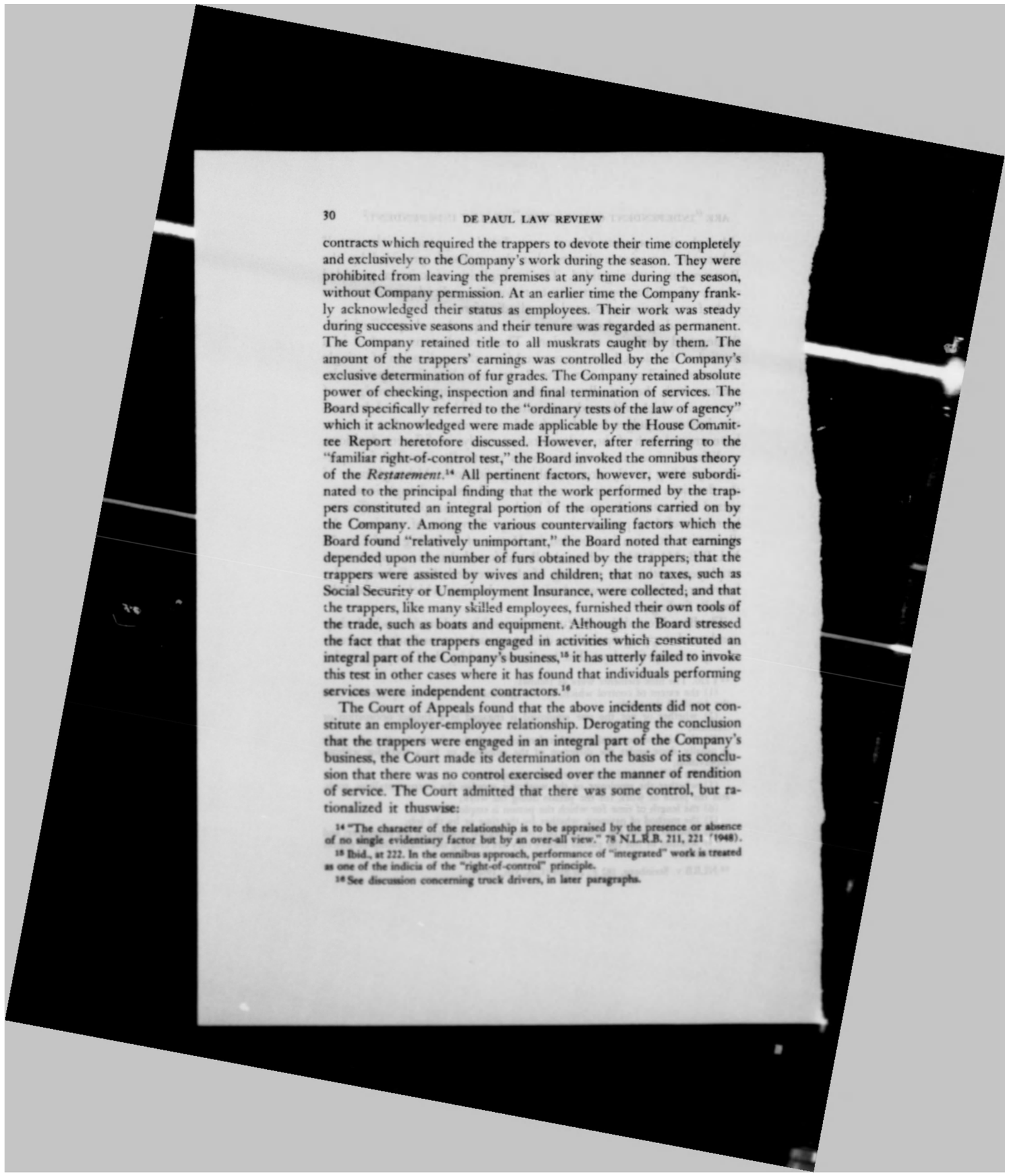
although nine separate factors were listed as pertinent elements.[12] Subsequent experience showed that the approach provided by the *Restatement* was misguided. The multiplicity of criteria provided merely afforded an opportunity to rationalize judicial preconceptions in the fact situations presented for adjudication.

Court and agency decisions constitute a "patchwork quilt" of conflicting and confusing conclusions. These conclusions, reached in a myriad of decisions, have not resulted from the application of a single "common law" control test. The *Restatement* lists nine separate elements, which, theoretically, were designed to comprise an amalgam of criteria on which uniform determinations could be predicated. In practice, however, judges, boards and trial examiners, with a fine unction, have stressed each of those elements, separately, in different decisions, at different times, in connection with practically identical fact patterns, yielding utterly irreconcilable adjudications. Although most of the decisions pay lip service to the control test as though it were a sacred incantation, the science of legal semantics has proven sufficiently resourceful to provide the necessary "formulae of evasion." An illustrative situation is provided in *Matter of Steinberg and Co.*, 78 N.L.R.B. 211 (1948), where the Board found that fur trappers were employees within the meaning of the amended Act. Subsequently, however, enforcement was denied in a decision which reversed the Board's findings.[13]

The Board found that the fur trappers subleased land on which they conducted trapping operations during annual seasons lasting approximately seventy-five days. The land was leased by the Company under

[12] § 220. The nine elements were as follows:
(1) the extent of control which, by the agreement, the master may exercise over the details of the work;
(2) whether or not the one employed is engaged in a distinct occupation or business;
(3) the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the employer or by a specialist without supervision;
(4) the skill required in the particular occupation;
(5) whether the employer or the workman supplies the instrumentalities, tools, and the place of work for the person doing the work;
(6) the length of time for which the person is employed;
(7) the method of payment, whether by the time or by the job;
(8) whether or not the work is a part of the regular business of the employer; and
(9) whether or not the parties believe they are creating the relationship of master and servant.

[13] NLRB v. Steinberg, 182 F. 2d 850 (C.A. 5th, 1950).



contracts which required the trappers to devote their time completely and exclusively to the Company's work during the season. They were prohibited from leaving the premises at any time during the season, without Company permission. At an earlier time the Company frankly acknowledged their status as employees. Their work was steady during successive seasons and their tenure was regarded as permanent. The Company retained title to all muskrats caught by them. The amount of the trappers' earnings was controlled by the Company's exclusive determination of fur grades. The Company retained absolute power of checking, inspection and final termination of services. The Board specifically referred to the "ordinary tests of the law of agency" which it acknowledged were made applicable by the House Committee Report heretofore discussed. However, after referring to the "familiar right-of-control test," the Board invoked the omnibus theory of the *Restatement*.[14] All pertinent factors, however, were subordinated to the principal finding that the work performed by the trappers constituted an integral portion of the operations carried on by the Company. Among the various countervailing factors which the Board found "relatively unimportant," the Board noted that earnings depended upon the number of furs obtained by the trappers; that the trappers were assisted by wives and children; that no taxes, such as Social Security or Unemployment Insurance, were collected; and that the trappers, like many skilled employees, furnished their own tools of the trade, such as boats and equipment. Although the Board stressed the fact that the trappers engaged in activities which constituted an integral part of the Company's business,[15] it has utterly failed to invoke this test in other cases where it has found that individuals performing services were independent contractors.[16]

The Court of Appeals found that the above incidents did not constitute an employer-employee relationship. Derogating the conclusion that the trappers were engaged in an integral part of the Company's business, the Court made its determination on the basis of its conclusion that there was no control exercised over the manner of rendition of service. The Court admitted that there was some control, but rationalized it thuswise:

[14] "The character of the relationship is to be appraised by the presence or absence of no single evidentiary factor but by an over-all view." 78 N.L.R.B. 211, 221 (1948).

[15] Ibid., at 222. In the omnibus approach, performance of "integrated" work is treated as one of the indicia of the "right-of-control" principle.

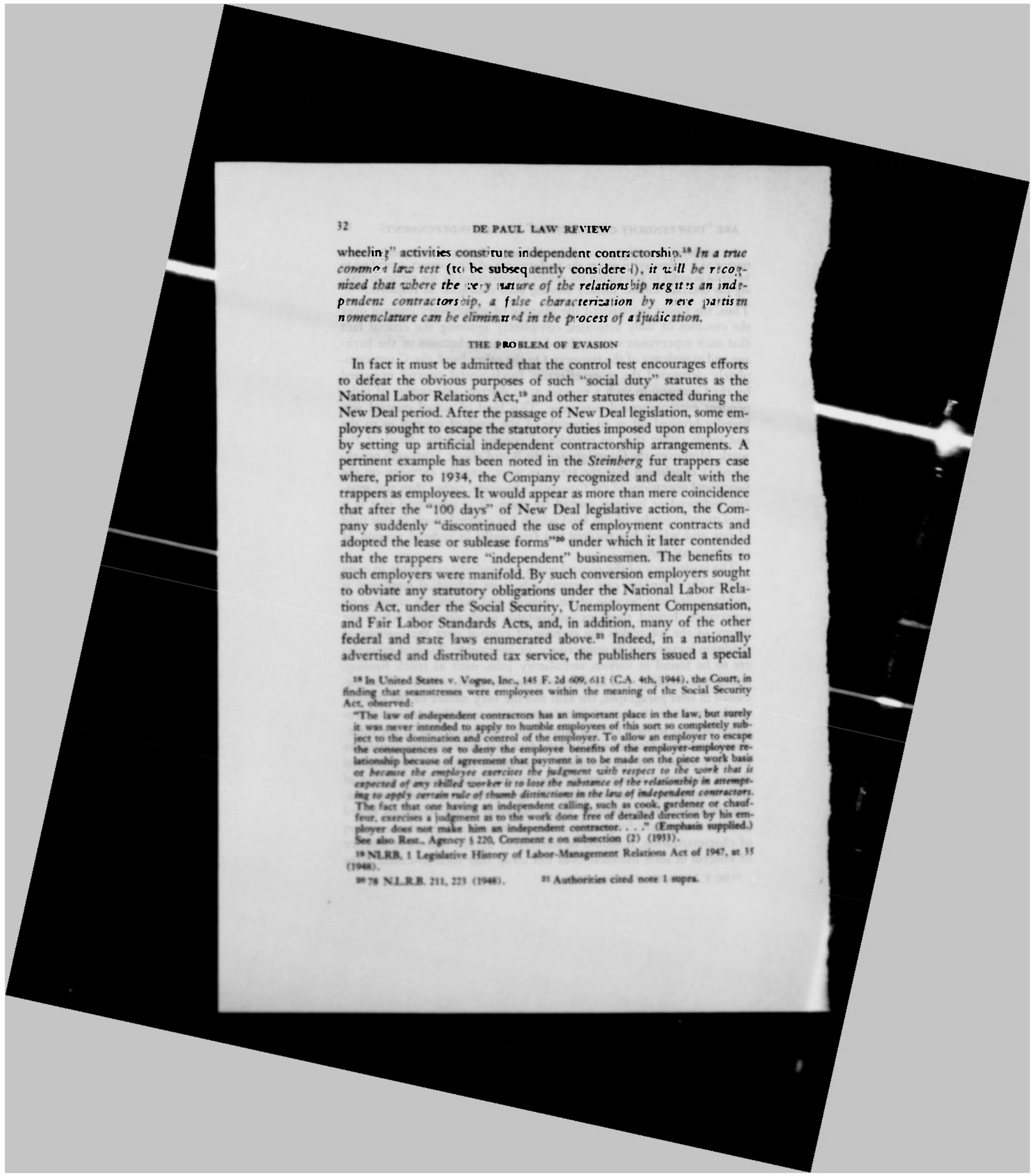
[16] See discussion concerning truck drivers, in later paragraphs.

An employer has a right to exercise such control over an independent contractor as is necessary to secure the performance of the contract according to its terms in order to accomplish the results contemplated by the parties in making the contract without thereby creating such contractor an employee.[17]

Thus, the Court emphasized the absence of supervisory control over the conduct of daily activities, completely ignoring the crucial fact that such supervision was rendered unnecessary because of the heritage and experience of the trappers. On the other hand, the Court completely derogated the more effective fundamental control exercised by the Company in such a manner as to destroy any vestige of independent entrepreneurial enterprise. This kind of actual control was literally brushed off as an example of the kind of control as to the end result rather than an exercise of control over the detail of the work. Moreover, the Court ignored the Board's basic (although not expressed) conclusion that the trappers were actually carrying on the functional operations of the Company's business, rather than any separate independent business owned by them. It is submitted that it is legal mumbo-jumbo of this kind which has created chaos in this field of law and which has resulted too frequently in judicial evasion of congressional purpose.

The inadequacy of the control test is particularly noticeable in cases such as the *Steinberg* case (supra) where an individual employee is highly skilled and because of his training and experience requires no supervision. Indeed, there are innumerable work situations where the nature of the job makes the exercise of control over the manner of rendition inexpedient or unnecessary, or impossible. Typical examples are to be found in various ambulatory jobs, such as truck hauling, selling and vending, etc. In the motor carrier cases, which will be discussed in later paragraphs, the skill and the very nature of the drivers' work permits an absence of direct supervision over the manner of rendition of their service. On the other hand, the regulations of the Interstate Commerce Commission and the fact that their services constitute the very essence of the company's operations require a fundamental degree of control which utterly negates any "independent" aspect of their relationship to the company. To ignore the latter and to emphasize the former characteristic, as the National Labor Relations Board and the courts have frequently done, constitutes a flagrant perversion of characterization. It should be universally agreed that mere absence of control in such instances does not mean that such so-called "free

[17] 182 F. 2d 856, 856 (C.A. 9th, 1950).



wheeling" activities constitute independent contractorship.[18] *In a true common law test* (to be subsequently considered), *it will be recognized that where the very nature of the relationship negates an independent contractorship, a false characterization by mere partisan nomenclature can be eliminated in the process of adjudication.*

THE PROBLEM OF EVASION

In fact it must be admitted that the control test encourages efforts to defeat the obvious purposes of such "social duty" statutes as the National Labor Relations Act,[19] and other statutes enacted during the New Deal period. After the passage of New Deal legislation, some employers sought to escape the statutory duties imposed upon employers by setting up artificial independent contractorship arrangements. A pertinent example has been noted in the *Steinberg* fur trappers case where, prior to 1934, the Company recognized and dealt with the trappers as employees. It would appear as more than mere coincidence that after the "100 days" of New Deal legislative action, the Company suddenly "discontinued the use of employment contracts and adopted the lease or sublease forms"[20] under which it later contended that the trappers were "independent" businessmen. The benefits to such employers were manifold. By such conversion employers sought to obviate any statutory obligations under the National Labor Relations Act, under the Social Security, Unemployment Compensation, and Fair Labor Standards Acts, and, in addition, many of the other federal and state laws enumerated above.[21] Indeed, in a nationally advertised and distributed tax service, the publishers issued a special

[18] In United States v. Vogue, Inc., 145 F. 2d 609, 611 (C.A. 4th, 1944), the Court, in finding that seamstresses were employees within the meaning of the Social Security Act, observed:

"The law of independent contractors has an important place in the law, but surely it was never intended to apply to humble employees of this sort so completely subject to the domination and control of the employer. To allow an employer to escape the consequences or to deny the employee benefits of the employer-employee relationship because of agreement that payment is to be made on the piece work basis or *because the employee exercises the judgment with respect to the work that is expected of any skilled worker it is to lose the substance of the relationship in attempting to apply certain rule of thumb distinctions in the law of independent contractors.* The fact that one having an independent calling, such as cook, gardener or chauffeur, exercises a judgment as to the work done free of detailed direction by his employer does not make him an independent contractor. . . ." (Emphasis supplied.) See also Rest., Agency § 220, Comment e on subsection (2) (1933).

[19] N.L.R.B. 1 Legislative History of Labor-Management Relations Act of 1947, at 35 (1948).

[20] 78 N.L.R.B. 211, 223 (1948).

[21] Authorities cited note 1 supra.

brochure to their clients. In it, suggestions were made concerning considerable tax savings to be effectuated by subtracting sufficient control in given situations, thereby converting an employment relationship into an independent contractorship. Illustrations were provided. Even if cases of deliberate manipulation may be relatively infrequent,[88] there unquestionably are innumerable examples of "evasion by nomenclature." Such instances, made possible by mechanical application of "control" criteria, are manifestly unfair to workers who are thereby deprived of various statutory benefits which they were scheduled to enjoy. Obviously, such situations are contrary to public policy.

INCONSISTENCIES IN NLRB CRITERIA

We have earlier noted that there has been wide-spread inconsistency in the application of various criteria in the administrative decisions. In *Matter of Nu-Car Carriers, Inc.*,[89] the Board found that owner-operators were compelled to purchase a tractor under a conditional sales agreement, at the same time entering into a lease agreement with the company under which the tractor would be used with a trailer supplied by the employer. It was found that all essential controls were in the hands of the employer. The Board noted the circumstances which showed that the employer reserved control over the work of the drivers, and exercised supervision by such means as the use of patrol cars. Significantly, however, the Board emphasized the conclusion that the work performed was inherently the work of an employee. In fact, *the Board actually invoked a true common law test of employment*, when it said:

> The transportation of new cars by trailer-trucks constitutes the sole business of the Respondent and the maintenance of that traffic requires the employment in one form or another of qualified drivers. To accept the Respondent's contention that these operators are engaged in individual business enterprises would require us to consider the Respondent to operate in a manner analogous

[88] For an excellent analysis of the problem of statutory evasion, in the trucking industry, see "Statement of David Previant and Warren Hall, attorneys, International Brotherhood of Teamsters, etc.," Hearings before the Committee on Labor and Public Welfare, United States Senate, on proposed provisions of the Labor Management Relations Act of 1947, Part 1, pp. 1686-1692 (1951), e.g., "So, born out of the desire of some employers to evade and frustrate national policy, the use of so-called independent contractors grew and flourished in those industries where they had never existed before. The highly competitive trucking industry, and those industries which distributed their products by trucks, were particularly plagued by this development." Ibid., at 1686.

[89] 25 L.R.R.M. 1288, 88 N.L.R.B. 75 (1950).

to a holding company. We do not believe the Respondent to be so divorced from the actual performance of its business.[24]

The Board has frequently held that where persons are not pursuing a separate and independent calling, and where the work they do is an integral part of the company's business, the relationship cannot be classified as one of independent contractorship.[25]

And yet, in subsequent decisions where the Board determined that owner-drivers were independent contractors, the fundamental criterion emphasized in the *Nu-Car* case, above quoted, was completely ignored. In *Matter of Oklahoma Trailer Convoy, Inc.*,[26] and *Matter of Malone Freight Lines, Inc.*,[27] the Board described the elements of the relationship on the basis of which its determination was made. Although it pointed to the wide discretion exercised by the drivers in the performance of their driving activities, it must be noted that, essentially, the principal point of fact by which it distinguished its holdings in the latter cases from *Nu-Car*, was its finding that in *Oklahoma* and *Malone* there was absolute and bona fide ownership of the tractors by the drivers! However, in all of these cases, the essential business operations of the respective companies were being performed by the drivers. In no case were the drivers pursuing an independent calling. In all cases, they were required to devote their full time to performing services which certainly constituted the very essence of the company's business. (This is also largely true of the fact situation in *Greyvan Lines, Inc. v. Harrison.*[28]) Although innumerable facts concerning the work of the drivers were discussed and evaluated in the above decisions, the above discussion deals with those phases of the cases which the Board should have considered decisive–at least as decisive as it did in its *Nu-Car* decision. The Board reliance on ownership as the vital distinguishing factor is even in derogation of the control test. There are many rulings which sustain the proposition that ownership of

[24] 25 L.R.R.M. 1288, 1289, 88 N.L.R.B. 75, 76 (1950).

[25] N.L.R.B. v. Phoenix Mutual Life Ins. Co., 167 F. 2d 983 (C.A. 7th, 1948), cert. denied, 335 U.S. 845 (1948); National Gas Co., 30 L.R.R.M. 1065, 99 N.L.R.B. 273 (1952); Plainfield Courier-News Co., 28 L.R.R.M. 1350, 95 N.L.R.B. 532 (1951); Central Packing Co., 28 L.R.R.M. 1276, 95 N.L.R.B. 19 (1951); Columbia Reporting Co., 25 L.R.R.M. 1294, 88 N.L.R.B. 168 (1950). See also, Pittsburg Valve Foundry v. Gallagher, 32 F. 2d 436 (C.A. 6th, 1929); and discussion in subsequent paragraphs herein concerning basis of Board's findings in the Hearst cases.

[26] 30 L.R.R.M. 1201, 99 N.L.R.B. 1019 (1952).

[27] 32 L.R.R.M. 1622, 106 N.L.R.B. No. 176 (decided September 18, 1953).

[28] 156 F. 2d 412 (C.A. 7th, 1946), aff'd sub nom. United States v. Silk, 331 U.S. 704 (1947).

tools or vehicles does not convert an employee into an independent contractor where the employer has reserved the right of control.[29] In this connection, the comment by Previant and Hall is pertinent.[30]

HORSE POWER V. HORSEPOWER

In the decisions where the Board has stressed "bona fide" ownership of vehicles as a basis for an independent contractorship finding, it has ignored true common law criteria. Even more, it has ignored the leading case of *Singer Mfg. Co. v. Rahn*.[31] In that case, the Supreme Court held a sewing machine salesman to be an employee even though he received no salary and was not actually supervised, although, under his contract, he agreed to accept "instructions" and to devote his full time to his job. He was required to furnish his own horse and harness and to repair the wagon furnished by the company. The salesman, who owned and supplied the one-horse power locomotion, was designated as an employee. Generically speaking, the only difference between the *Malone* and *Singer* fact situations is in the amount of the horsepower locomotion owned and supplied by the employee. The legal patterns are identical. If the ownership of one-horsepower locomotion does not convert an employee into an independent contractor, why should

[29] E.g., Pittsburg Valve Foundry v. Gallagher, 32 F. 2d 436 (C.A. 6th, 1929); Vaughn Bros., 28 L.R.R.M. 1052, 94 N.L.R.B. 382 (1951); A. E. Blackidge, 26 L.R.R.M. 1478, 91 N.L.R.B. 222 (1950); Pehastin Lumber & Box Co., 26 L.R.R.M. 1381, 90 N.L.R.B. No. 226 (1950). Also note the finding in the Steinberg trappers case, where the Board said that the fact that "the trappers like many skilled employees who furnish the tools of their trade, supply their own traps and equipment, does not prevent their acquiring an employee status." 78 N.L.R.B. 211, 224 (1948).

[30] "In all these delivery situations, both over-the-road and local, the actual transportation service, which is the primary and basic liability of the employer, is accomplished by former employees or those who have replaced them. The only real change in the relationship has been the transfer of the ownership of the vehicle from the employer to the employee; and in some cases there has been no real transfer of ownership but a purported one, achieved through lease, rental or other colorable transactions.

"The trucks involved still bear the name and distinctive markings of the employer; the employees still wear the uniforms required by the employer; the advertising, public-relations, solicitation of customers and good-will programs, are still those of the employer. Insofar as the public is concerned, it is still dealing with the employer, not with a little-business man or independent contractor.

"The owner-driver is still, for all practical purposes, an employee. He is bound to the employer, by lease or contract, to serve such employer only and no other. He is subject to the employer's direction at all times. He holds his employment solely at the whim of the employer. He is not independent in any sense of the term. He cannot carry on his own business nor hold himself out to the public as an independent, small-business man. All that actually happened is that he differs from other employees in only one aspect—he provides his own tools of the trade just as other skilled craftsmen do." Hearings, Taft-Hartley Revisions, op. cit. supra note 22, at 1688.

[31] 132 U.S. 518 (1889).

ownership of 119 or 169 horsepower do so?[32] This is one instance in which social progress requires the application of "horse and buggy" principles.

ECONOMIC CONSEQUENCES OF EXCLUSIONARY POLICY

In cases like *Malone*, there is no mere abstract legal principle at stake. Economic tragedy stalks in the wake of the Board decisions. In that case, one hundred twenty-seven employees engaged in concerted activities for the purposes of collective bargaining and self-organization[33] on the assumption that their right to do so was vouchsafed to them by law. When they went on strike to compel the company to comply with what they understood to be its statutory obligations, they were all discharged summarily. As a result of the Board action their charges were dismissed and they were left without remedy or forum in which to seek redress. If the Board's decision stands, they stand helpless, without recourse. Indeed, if they were to continue to resort to "self-help" and continue their collective self-organizational activities, they might well be confronted with further litigation, or even criminal prosecution under the Sherman Anti-Trust Act.[34] Or else, they might experience the fate which recently befell the Teamsters Union in *Matter of Hoosier Petroleum Company*.[35] In that case the Union engaged in a strike to compel recognition. The Company contended that the drivers were actually employed by one Floyd, who owned seven tractors leased by the Company. The Board trial examiner conducted a hearing and found that, actually, the Company was the real employer and that Floyd acted as a foreman. The Board reversed the trial examiner, finding that Floyd was an independent contractor and therefore, the real employer. The Board, thereupon, ruled that the *Union picketing of the Company's place of business constituted a secondary boycott*, in violation of Section 8(b)(4)(A) of the Act. By picketing the premises of the Company, designated (for the first time, in its decision) as a "neutral," the Board ruled that the Union was encouraging and

[32] The average 2½ ton truck develops 185 brake horsepower which is equivalent to 119 regular horsepower. An average tractor-trailer develops 219 brake horsepower which is equivalent to 165 horsepower.

[33] National Labor Relations Act, §§ 7, 8(a)(1)(3)(5), 49 Stat. 449 (1935), as amended, 29 U.S.C.A. § 151 (1947).

[34] 26 Stat. 209 (1890), 15 U.S.C.A. § 1 (1951); e.g., Hawaiian Tuna Packers v. International Longshoremen's & Warehousemen's Union, 72 F. Supp. 562 (D.C. Hawaii, 1947).

[35] 32 L.R.R.M. 1522, 106 N.L.R.B. No. 111 (August 7, 1953).

inducing the employees of said "neutral" Company to engage in a strike or concerted refusal in the course of their employment to perform services or to use materials, with the object of forcing or requiring the "neutral" Company to cease doing business with Floyd. Under the Taft-Hartley Act, the employees are not only prohibited from further picketing the premises of the Company—they are also subject to a suit for damages in a federal court under Section 303(b) of the Act!

The *Malone* decision is hardly defensible by any theory of independent contractorship—whether the control, the omnibus *Restatement*, the integrated function, the independent calling, or the economic reality (statutory purpose) test. As hereinabove noted the Board has, in many previous cases, held in favor of "employee" status despite the circumstances found in the *Malone* fact situation. Even as to the ownership of the tractors it could not be said that there was a substantial capital investment by the alleged entrepreneur under circumstances which afforded possibility of potential profit, not merely from service, but from the investment in the equipment. In this connection, it was quite obvious that use of the equipment was strictly controlled by the Company in innumerable ways. The purchase of a tractor, although an obviously expensive "tool," merely afforded the driver an opportunity to earn such money for services rendered as the Company permitted. The driver could not use his own tractor to haul merchandise for any higher bidder. He could not even delegate his work to another person. The trial examiner conceded many elements of control and restrictions on the activities of the drivers, including the right to direct the driver to haul a load and the right to discharge him at will, regardless of his "contract" or "business investment." Of course, he completely ignored the *Nu-Car* theory, certainly applicable here, that the drivers did not pursue an independent calling because they were engaged in a continuous service operation in the exclusive service of the Company, carrying on the functions which constituted the very essence of the employer's business.

IMPACT AND ANALYSIS OF HOUSE COMMITTEE REPORT

Much of the current confusion in this phase of the law can be traced to the House Committee Report which charged that the National Labor Relations Board, under the Wagner Act, had gone far afield in extending the coverage of the Act to groups which Congress had never

intended to cover.[86] In pinpointing its charge, the Committee stated that in the *Hearst* case, "the Board expanded the definition of the term 'employee' beyond anything that it had ever included before, and the Supreme Court, relying upon the theoretic 'expertness' of the Board, upheld the Board."[87]

This congressional pronouncement has certainly created a "climate of opinion" in which the Board and many courts have been prompted to rationalize their adjudications in terms of the mythical standards enunciated in the Congressional Report. Thus, in the illustrative *Steinberg* case, the Board, in 1948, acknowledged that the new legislative history required that a "conventional meaning" be given to the definition of "employee," and that "ordinary tests" be used. The Board said, "Apparently the test thus contemplated is the familiar 'right-of-control test' which the courts apply in a variety of situations to differentiate between an employee and an independent contractor."[88] As noted in earlier paragraphs, the Board, applying the "required" tests, held that the trappers were employees of the partnership company. In our earlier discussion we observed that the Board stressed its conclusion that the work performed by the trappers constituted an integral aspect of the company's operations. Although the Board was strongly motivated by this finding, its ultimate rationalization was delivered in terms of the "right-of-control" test. In other words, under the omnibus theory of the *Restatement*, this jurisdictional finding constituted one of the nine indicia of the overall "right-of-control" theory. The Board has employed this technique in other cases where it has found an employment relationship.[89] Actually, as we shall see in subsequent pages, it was not necessary. It may well be that the Board's obvious belief that it must pay lip service to the "right-of-control" test has prevented its invocation of the "independent calling" or "integrated function" test in certain of the cases hereinbefore noted.[90] At any rate, it is to be observed that the Committee Report does not specify what it means by conventional tests or ordinary meanings.

[86] "It must be presumed that when Congress passed the Labor Act, it intended words to have the meanings that they had when Congress passed the Act, not new meanings that, nine years later, the Labor Board might think up." NLRB, 1 Legislative History of Labor-Management Relations Act of 1947, at 309 (1948).

[87] Ibid.

[88] 78 N.L.R.B. 211, 221 (1948).

[89] E.g., Nu-Car Carriers, Inc., 88 N.L.R.B. 75, 76 (1950).

[90] See previous discussion of Oklahoma and Malone cases in text above notes 25 and 26 supra.

However, in evaluating the Committee Report as legislative history, it is pertinent to ascertain the accuracy of factual allegations on the basis of which the legislative command is predicated. In this connection, sober evaluation on the basis "of the record" yields the irrefutable conclusion that the Committee accusation was unfounded invective.

In the Board's original decision in the *Hearst* case,[41] it actually emphasized the degree of control exercised by the employer over the manner in which the newsboy employees performed their duties.[42] The Board made specific findings of fact to support its conclusion. Thus, it was found that the publishers actively supervised the selling activities of the newsboys in many details such as calling, holding and displaying the newspaper, and the selling spots within allotted territory; that the boys were fired, transferred and laid off as disciplinary measures. Many circumstances found to exist demonstrated that the newsboys were not free agents in the performance of their continuing service. The Board specifically cited its earliest decision on this subject,[43] with reference to which it noted:

> In cases where the status of an individual was challenged, we have indicated that the statutory definition of the term 'employee' embraces all employees in the *conventional* as well as legal sense, except those by express provision excluded, and that the primary consideration in the determination of the applicability of the statutory definition is whether effectuation of the declared policy and purposes of the Act comprehend securing to the individual the rights guaranteed and protection afforded by the Act.[44]

The Board's definition of "employee" in its early *Hearst* decision, therefore, is obviously *not* an expansion of the definition of the term "beyond anything that it had ever included before" as charged by the House Committee. In fact, the Board itself, in 1938, and again in 1941, invoked the very limitation which the House Committee demanded in its Report. In view of the record evidence establishing the elements of control over the details of service, the newsboys were classified as employees on the basis of the most rigid of "right-of-control" test standards. In fact, applying these same standards, the Board, between 1935 and 1947, declared in many cases, that would-be employees were ex-

[41] Stockholders Publishing Co., 28 N.L.R.B. 1006 (1941).

[42] "On the basis of the foregoing, we are of the opinion that the companies have the right to exercise, and do exercise such control and direction, over the manner and means in which the newsboys perform their selling activities as establishes the relationship of employer and employee for the purposes of the Act." Ibid., at 1023.

[43] Seattle Post-Intelligencer, 9 N.L.R.B. 1262 (1938).

[44] Stockholders Publishing Co., 28 N.L.R.B. 1006, 1023 (note 23 therein) (1941).

cluded as independent contractors.[45] In the *Houston Chronicle* case,[46] decided on January 7, 1941, two days before the *Stockholders* case,[47] the Board held that newsboys were independent contractors because the company exercised no supervision of any kind over their activities on the street with respect to the manner and methods used in news vending.

On the other hand, the Board in its early cases,[48] ruled in favor of employee status on the basis of the same standards which it applied in the *Stockholders* case.

It is quite clear that the Board's ruling in the *Stockholders* case was *not* "most far reaching" as stated in the Committee Report, and that it did not import any "new meanings" which Congress did not have in mind or which the Board thought up nine years after the Act was passed. In short, it is here stated, without qualification, that there is no scintilla of accuracy in the Committee's characterization of the Board's decision in the *Stockholders* case.

Moreover, when the Supreme Court affirmed the Board in *NLRB v. Hearst*,[49] the Court's decision did not grant any administrative "carte blanche" permitting an extension of Board jurisdiction to groups of persons to which Congress never intended the Act to apply.

The House Committee's condemnation was based upon the assumption that the "economic reality" test invoked by the Supreme Court constituted a broad, sweeping generalization designed to herd large groups of individuals into the jurisdiction of the National Labor Relations Board, contrary to allegedly obvious congressional intent. Actually, the assumption is as far fetched as it is invidious. In its decision, issued in 1944, the Court stated:

> It cannot be taken . . . that the purpose was to include all other persons who may perform service for another or was to ignore entirely legal classifications made for other purposes. Congress had in mind the narrow technical legal relation of 'master and servant.' The question comes down to, therefore,

[45] E.g., Kelly Co., 34 N.L.R.B. 325 (1941); Paramount Pictures, Inc., 33 N.L.R.B. 447 (1941); Twentieth Century Fox Film Corp., 32 N.L.R.B. 717 (1941); Houston Chronicle Publishing Co., 28 N.L.R.B. 1043 (1941); Theurer Wagon Works, Inc., 18 N.L.R.B. 857, 869 (1939); Federal Ice & Storage Co., 18 N.L.R.B. 161, 164, 165 (1939); Crossett Lumber Co., 8 N.L.R.B. 440, 475, 476 (1938).

[46] 28 N.L.R.B. 1043 (1941). [47] 28 N.L.R.B. 1006 (1941).

[48] E.g., South Bend Fish Corp., 38 N.L.R.B. 1176 (1942); Blount, 37 N.L.R.B. 662 (1941); Yasek, 37 N.L.R.B. 156 (1941); Reichelt, 21 N.L.R.B. 262 (1940); Park Floral Co., 19 N.L.R.B. 403 (1940); Sun Life Ins. Co., 15 N.L.R.B. 817 (1939); Interstate Granite Corp., 11 N.L.R.B. 1046 (1939).

[49] 322 U.S. 111 (1944).

how much was included in the intermediate region between what is clearly and unequivocally 'employment,' by any test, and what is clearly an entrepreneurial enterprise and not employment.[50]

Three years later, after the House Committee issued its Report on April 11, 1947, and after the passage of the Labor-Management Relations Act on June 6, 1947, the Supreme Court reiterated its position, thereby, in effect, rejecting the House Committee's characterization of its *Hearst* decision.[51] Once again the Court specifically stated that there were limitations to be recognized in determining the employer-employee relationship. As though it were administering a rebuke to the House Committee, the Court said:

> Of course this does not leave Courts free to determine the employer-employee relationship without regard to the provisions of the Act. The taxpayer must be an 'employer' and the man who receives wages an 'employee.' There is no indication that Congress intended to change normal business relationships through which one business organization obtained services of another to perform a portion of production or distribution.[52]

The point here made is that the fundamental guide post to be used in any administrative or judicial determination is the jurisdictional determination as to whether the individuals involved in the context of the existing relationship affected are within the purview of a legislative intendment. If the people involved, as a matter of economic reality, belong to a group in our society to whom a congressional act is designed to apply, or if the relationship between the parties and the factual developments constitute objectives at which the provisions of such act are aimed, then it should be universally recognized that such circumstances may not be ignored in the administrative or judicial process.

[50] Ibid., at 124.

[51] United States v. Silk, 331 U.S. 704, 713, 714 (1947), where the Court said that the application of the Social Security legislation should follow the same rule that it applied to the National Labor Relations Act in the Hearst case:

"We pointed out that the legal standards to fix responsibility for acts of servants, employees or agents had not been reduced to such certainty that it could be said there was 'some simple, uniform and easily applicable test.' The word 'employee,' we said, was not there used as a word of art, and its content in its context was a federal problem to be construed 'in the light of the mischief to be corrected and the end to be attained.' We concluded that, since that end was the elimination of labor disputes and industrial strife, 'employees' included workers who were such as a matter of economic reality. The aim of the Act was to remedy the inequality of bargaining power in controversies over wages, hours, and working conditions." Ibid., at 713.

[52] Ibid., at 714.

It is to be emphasized that the "economic reality" test as circumscribed by the Supreme Court itself is not actually negated by the House Committee Report. It must be conceded that what the House Committee excoriated was its own erroneous characterization of what the Supreme Court said. Thus viewed, it is submitted that the Board and the courts need not interpret the House Committee Report as a legislative command *to exclude from the coverage of the National Labor Relations Act those persons whose economic status marks them as persons to whom the Act was intended to apply.* This is not to say that the Act should be applied as indiscriminately as the House Committee erroneously thought it was. On the contrary, a true effectuation of the legislative purpose requires a truer perspective as to who shall be treated as employees in our economic system. It needs to be recognized that the interpretational and judicial processes are not to be put into a legalistic strait-jacket on the mistaken assumption that excesses were indulged in prior to 1947. Actually, as has been indicated throughout this article, the reverse has been true. By the application of the "right-of-control" test in countless situations and with an infinite number of variations, the doctrine of independent contractorship has been expanded far beyond its original scope in our common law. The purposes of federal and state social and labor legislation have been substantially subverted by the use of erroneous "common law" standards.

ORIGIN OF THE INDEPENDENT CONTRACTOR CONCEPT

Much of the current confusion and conflict in the law of independent contractorship has developed from an imperfect understanding or total disregard of the judicial pronouncements which gave birth to the original concept. Analysis of earlier decisions in American and English law will furnish basic guide principles which can be effectively invoked by contemporary boards and courts in restricting the independent contractor to the true position he was originally designed to occupy in our industrial society. Such result is inevitable despite the paradox that it is here proposed that original guide principles be applied to industrial fact situations which the original judicial inventors of the doctrine never contemplated.

The concept of independent contractorship is a modern judicial in-

vention. It was utterly unknown to the early common law.[53] Although the independent contractor was not mentioned specifically by name until the middle of the nineteenth century, it is apparent that the doctrine was used a little earlier as a device to ameliorate the rigorous application of the early common law doctrine of Respondeat Superior.[54] The early judges noted that there were cases in which they would be required to inflict tort liability on a master for torts committed by a servant or one hired by him in a situation where the servant was actually performing a single job of work for a price as part of his own independent or established business, profession or calling. In these instances some judges reasoned that the nature of the relationship between the master and person hired by the servant was too remote to justify the imposition of vicarious liability. In applying the doctrine of cause and effect, it was observed that liability could only be premised on the right of control over performance. Because of the very nature of the relationship, the right of control did not, normally, exist. However, the absence or waiver of right of control was not a fact to be proven in establishing one as an independent contractor. In the foundation cases, the decisive principle applied was that a person engaged in performing a job in the course of an independent calling should not be treated as a servant in determining tort liability. The criteria used in those cases constituted, in fact, a true "economic reality" test based on the economic facts of the relationship between the parties involved. Thus, it was on the basis of the role he played in the economy that it was determined that the person who hired him could not justly be held accountable for his torts.[55]

The original revolt against the unlimited application of the doctrine of Respondeat Superior, giving rise to the independent contractor concept, was instigated by the adverse reaction of English and American judges to the decision in *Bush v. Steinman*.[56] In that

[53] There is no definition of an independent contractor in a standard law dictionary published in 1843: Bouvier, A Law Dictionary Adapted to the Constitution of the United States of America (2d ed., 1843). Justice Holmes in 3 Selected Essays In Anglo-American Legal History 395 (1909), points out that as late as Blackstone, various kinds of agents, including factors, were classified as a species of servant.

[54] For a history of this doctrine, see Smith, Frolic and Detour, 23 Col. L. Rev. 444 (1923), and Douglas, Vicarious Liability and Administrative Risk, 38 Yale L. J. 584 (1929). New York Law Revision Commission, Legislative Document No. 65 (1939); Stover Bedding Co. v. Industrial Commission, 107 P. 2d 1027 (Utah, 1940).

[55] Milligan v. Wedge, 12 A. & E. 737 (K. B., 1840).

[56] 1 B. & P. 404 (C.P., Ex.Ch., 1799).

case, the defendant was held responsible for causing a pile of lime to be placed on a roadway by means of which the plaintiff's carriage was overturned. The defendant had purchased a house by the side of the road and had contracted with a surveyor to put it in repair for a stipulated sum. A carpenter under contract with the surveyor to perform the job employed a bricklayer under him. The bricklayer, in turn, contracted with a lime burner to furnish a quantity of lime. The servant of the lime burner placed the lime on the roadway where it caused the accident with its resulting injury. The defendant was held responsible under the doctrine of Respondeat Superior. The judges remarked that the act which caused the injury complained of was done for the defendant's benefit and was done by persons authorized to perform the work for him. One of the concurring judges frankly stated that he had great difficulty in stating with accuracy the grounds on which the verdict could be supported. Several judges dissented. One of the cases cited was *Littledale v. Lord Lonsdale*[57] where liability was imposed for injury caused by servants of an agent engaged in working the defendant's colliery. It was stressed that Lonsdale should be held responsible because the agent was managing Lonsdale's business. The agent was not pursuing any independent calling. Although the *Bush* decision was universally condemned later, the *Lonsdale* decision appears never to have been overruled or even criticized.

During the early days of the nineteenth century some courts made distinctions as to real and personal property in these negligence cases. However, the distinctions were ultimately abolished and the *Bush* doctrine was effectively repudiated. The evolutionary process of judicial repudiation is described in the scholarly opinion in *Hilliard v. Richardson*.[58] There the court cited the early landmark decisions[59] on the basis of which it was able to say "*Bush v. Steinman* is no longer law in England. If ever a case can be said to have been overruled, indirectly or directly, by reasoning and by authority, this has been."[60] *Milligan v. Wedge*[61] is illustrative. There it was recognized that a

[57] 2 H.Bl. 267 (C.P., 1793).

[58] 3 Gray (Mass.) 349 (1855).

[59] Allen v. Hayward, 7 Q.B. 960 (1845); Rapson v. Cubitt, 9 M.&W. 710 (Ex., 1842); Milligan v. Wedge, 12 A. & E. 737 (K.B., 1840); Quarman v. Burnett, 6 M.&W. 499 (Ex., 1840); Laugher v. Pointer, 5 B&C. 547 (K.B., 1826).

[60] 3 Gray (Mass.) 349, 363 (1855).

[61] 12 A.&E. 737 (K.B., 1840).

drover driving cattle through the streets of London was not a common law servant because he was performing a special job of work in the course of his own separate business. It was a business in which he was licensed to engage. Lord Denman said of the defendant, "The party has not done the act complained of, but has employed another who is recognized by the law as exercising a *distinct calling*."[62] The exemption was not premised in any manner on the mere absence of right of control.

In these early cases, it was clearly recognized that one engaged in an independent calling, trade, occupation or profession is a specialist or expert. It was presumed that one who hired such a person would not normally be expected to exercise supervision over the performance of the job. That was the inherent circumstance on which exemption from vicarious liability was premised. The absence of control was a descriptive qualification justifying the judicial rationalization. It was a necessary one. The exemption from vicarious liability afforded in those cases was, of course, in derogation of the earlier rigid common law liability standards, and was strictly construed. Therefore, if the person hiring an independent contractor reserved the right of control over the work detail, he would have destroyed the basis of his exemption. Throughout the developmental period of the independent contractorship concept in tort cases, it was never applied in any case except where the services rendered were in the course of an independent occupation, trade or calling.[63]

DEVELOPMENT OF AMERICAN LAW

When one turns to the early American precedents in the development of this phase of the law, it is immediately apparent that the English doctrine was closely followed here. Although Bouvier's law dictionary of 1843 did not even contain a definition of an independent contractor, the cases subsequent to that time clearly established an exemption from the vicarious liability in tort cases for those who hired one. As was to be expected, this phase of tort law developed on a case-by-case basis. Nevertheless, *it is a singular fact that no early American precedent accords tort exemption on the sole basis of the right-of-control test which has created so much chaos in administrative and*

[62] Ibid., at 740–41. (Emphasis supplied.)

[63] See cases cited note 59 supra; also see note, Hardy v. Sheldon Co., 47 U.S. App. 362 (E.D. Mich., 1897).

judicial decisions during the last few decades. The only test applied in our earlier cases as to who is an independent contractor appears to be the same as that expressed in the English cases. An early standard American definition is *"one who carries on an independent business* and in the line of his business is employed to do a *job of work*, and, in doing it, does not act under the direction and control of his employer, but determines for himself in what manner it shall be done."[64] This definition is cited in landmark text books of American law.[65]

Perhaps the most widely quoted definition is the one contained in Shearman and Redfield's Standard Work on Negligence, where it was stated:

> Although in a general sense, every person who enters into a contract may be called a contractor, yet the word, for want of a better one, has come to be used with special reference to one who, in pursuit of an independent business, undertakes to do a specific piece of work for other persons using his own means and methods without submitting to their control in respect to all its details. The true test of a 'contractor' would seem to be that he renders service in the course of an independent occupation, representing the will of his employer as to the result of his work, and not as to the means by which it is accomplished.[66]

The text book definitions were, of course, derived from the decisions of judges. They are distillations of judicial pronouncements dating back to the Civil War period when this phase of the law was evolved. However, examination of the early cases shows no wide-spread diversity of judicial opinion. In *DeForrest v. Wright*,[67] the Michigan Supreme Court held that an employer was not liable for injury caused by a public licensed drayman hired to haul salt from a warehouse. In the act of delivering the load, a barrel, through the carelessness of the drayman, rolled against and injured a man on the sidewalk. The Court stated that the drayman was exercising a distinct and independent employment. *Linton v. Smith*[68] was an early leading case in which stevedores engaged to unload cargo were found to be independent contractors. The Court observed that "the business of stevedores is a separate, distinct, well-recognized business in Bos-

[64] Keys v. Second Baptist Church, 99 Me. 308, 59 Atl. 446 (1904). (Emphasis supplied.)

[65] Cooley, Torts § 647 (3d ed., 1908); Elliott, Railroads, § 1063 (1894); 16 American and English Encyclopedia of Law 187 (2d ed., 1895); Black's Law Dictionary 911 (4th ed., 1951); 14 R.C.L. 67 § 2.

[66] Shearman and Redfield, Negligence, 395 (6th ed., 1913).

[67] 2 Mich. 368 (1852).

[68] 8 Gray (Mass.) 147 (1857).

ton.[69] Of interest is the comment by the judge concerning his use of the word "contractor." "The word is a bad one, but there is no substitute."[70] Citing *Laugher, Quarman, Milligan, Hilliard* and *DeForrest*, the court referred to the exception of one "in the exercise of a distinct and independent employment" as "well known." Similar applications of this rationale were made in various cases in many state jurisdictions.[71]

An instructive example of a strict common law approach is provided in *Mullich v. Brocker*.[72] In that case an employee having no regular vocation agreed to break in a horse. Although he had some "amateur" experience, the court said,

> We find no countenance for the proposition that a person not especially qualified for a particular service, but ready to undertake any job which may be offered to him that he thinks himself able to perform, becomes, when hired for some job, an independent contractor simply because the employer relinquishes control over the work and trusts to the employee's discretion. It looks like the employee must have a calling in which it is fair to presume he has developed skill, before he will be regarded otherwise than as a servant. We do not say he must have a trade or profession, be a skilled mechanic, doctor or lawyer; but he must hold himself out as having an occupation with which he is familiar.[73]

Some of the cases have also stressed the aspect of the definition referring to the performance of a single job of work. In such cases the courts have held that a continuing service relationship is contrary "to the spirit" of the contractorship concept. Typical cases to this effect are set forth in the footnote.[74]

[69] Ibid. [70] Ibid., at 148.

[71] Murray v. Dwight, 161 N.Y. 301, 55 N.E. 901 (1910) where the court said, "a servant is one who is employed to render personal services to his employer otherwise than in the pursuit of an independent calling"; Humpton v. Unterkircher, 97 Iowa 509, 66 N.W. 776 (1896); Zimmerman v. Bauer, 11 Ind. App. 607, 39 N.E. 299 (1894); E. G. Powell v. Construction Co., 88 Tenn. 692, 13 S.W. 691 (1890); Bennett v. Truebody, 66 Cal. 509, 6 Pac. 329 (1885); Pickens v. Doecker, 21 Ohio St. 212 (1871).

[72] 119 Mo. App. 332, 97 S.W. 549 (1905). [73] 97 S.W. 549, 551.

[74] Linton v. Smith, 8 Gray (Mass.) 147 (1857); Hale v. Johnson, 80 Ill. 185 (1875); Rome & D. R. Co. v. Chasteen, 88 Ala. 591, 7 So. 94 (1889); Long v. Moon, 107 Mo. 334, 17 S.W. 810 (1891); Morgan v. Smith, 159 Mass. 570, 35 N.E. 101 (1893); Carlson v. Stocking, 91 Wis. 432, 60 N.W. 58 (1895); Norfolk & Western Railroad Co. v. Stevens, 97 Va. 631, 34 S.E. 525 (1899); Engler v. Seattle, 40 Wash. 78, 82 Pac. 136 (1905); Messner v. Bill & C. Co., 133 Ky. 19, 117 S.W. 346 (1909); Laffery v. U.S. Gypsum Co., 83 Kan. 349, 111 Pac. 498 (1910); Lindquist v. Hodges, 248 Ill. 491, 94 N.E. 94 (1911); Pottarff v. Fidelity Coal Mining Co., 86 Kan. 774 (1912); Alexander v. R. A. Shuman & Sons Co., 86 Conn. 292, 80 Atl. 514 (1912); Madix v. Hachgreve Brewing Co., 154 Wis. 448, 143 N.W. 189 (1913); Prest-O-Lite Co. v. Skeel, 182 Ind. 593, 106 N.E. 365 (1914).

The independent contractorship test developed in the land mark American cases was definitive and readily applicable. In applying it, an independent contractor was an easily identifiable person. In the pursuit of his profession, trade, business or calling he served the many who hired him to perform single jobs of work. *This availability for service to the public was the identifying-characteristic of his status.*

The definition which gave him his legal status negated the possibility of its application to one who served in continuous employment relationship. This was so, particularly where one performed services which constituted an integral phase of another's business.[75] In a true independent contractorship the genuine independent businessman's status of the contractor is, of course, the crucial issue. If the "independence" is a mere descriptive phrase and not an economic reality, then, of course, the independent contractor classification should not be applied. It should be conceded that the independence characterizing a true independent contractorship certainly cannot be ascribed to one exclusively engaged in an integral portion of the day-to-day operations of another's business. As we have seen, even the National Labor Relations Board in some of its cases has inferentially acknowledged the inconsistency of ascribing independent contractorship status to one who was actually an integrated human cog in another's working machine. Thus, there is a universal juridical and economic validity in the doctrine which prevents the establishment of independent contractorship status unless the contractor is actually engaged in his own independent calling, trade or profession in the performance of specific jobs. "Whose business is it?" was the question originally asked by the English common law court in the *Lonsdale* case in 1793. That question is equally applicable today. It must be remembered that the later common law decision[76] which was repudiated, and out of which arose the independent contractor concept, was one in which liability was imposed where various persons working for the original employer were engaged in their own respective independent and separate trades and callings.

[75] Poulson v. John Jarvis & Co., 122 L. T. 471 (1919): (Younger, L.J.), Where "work to be done by the servant is merely part, a necessarily integral part, of a larger operation every other section of which is admittedly under the complete control of a particular employer," then the principle that the servant of another becomes *pro hac vice* the servant of the particular employer applies.

[76] Bush v. Steinman, 1 B. & P. 404 (C.P., Ex. Ch., 1799).

In the "independent calling" test the emphasis on the essential nature of the occupation itself guaranteed uniformity in adjudication. Moreover, a further virtue of that postulation was that the status could not be created by mere subtraction by an employer of his power to supervise the performance of the work.[77] The very nature of the definition which gave the contractor an exempt status in tort law was calculated to apply only to the "genuine article."

CORRUPTION OF LEGAL DOCTRINE

And yet, as we have seen, the doctrine has become corrupted beyond recognition in a complex of statutory and current legal contexts. Speculation as to the cause may be fruitless. However, it seems pertinent to observe that the standard text book and judicial definitions specifying the jurisdictional elements of "independent calling" and "performance of single work items" also included the further descriptive provision that such contractor does not act under the direction and control of the employer. It is a credible thesis to presume that at some point in the development of the law of our time, when social and labor laws were accumulating on our statute books, social pressures increased correspondingly to escape the numerous social obligations imposed under such laws. With the meteoric rise in litigation, it was natural that many attempts were made to exempt individuals and groups from the operation of such laws. Judges and administrative boards in many instances were induced to attach new and unprecedented significance to the qualifying words of the definition. As a result, it became increasingly customary, albeit erroneous, to regard the freedom from control as a necessary condition precedent to the establishment of the status itself. In this posture, the independent contractorship concept could no longer be applied as uniformly or as restrictively as was originally intended in the decisions which created the status.

Under earlier doctrine an independent contractor was universally accorded such status, on the sole basis of the inherent nature of his business enterprise. There was a presumption that the very nature of the status precluded the exercise of control over the work of the independent contractor by the man who hired him. It must be remembered that the independent contractor concept was in derogation of the

[77] See court's language in Mullich v. Brocker, in text above note 73 supra.

common law and strictly construed. Therefore, it was deemed necessary to describe him in his status as one who was not subject to control. The reason for this is obvious. If, by contract or otherwise, the independent contractor relinquished his freedom from control and subjected himself to the supervision of the man who hired him, he would, of course, thereupon be considered an employee and his master would be held vicariously liable for his torts. Unfortunately, however, in the modern development of this phase of the law, many judges and administrative boards have misapprehended the reason for the qualifying descriptive language in the definition. As a result, decisions appeared in which the absence of control was regarded as a necessary qualification for the establishment of the independent contractor status. *This new condition precedent constituted a flagrant perversion of common law intent in view of the fact that originally, it was not the absence of control which created an independent contractorship, but rather, the presence of control which destroyed it.*

In order to view current adjudications affecting the law of independent contractorship in proper perspective, it is absolutely essential to recognize that the shift from "independent calling" criteria to "right-of-control" rationalizations is no mere transfer of emphasis from one common law test to another; it is nothing less than an abrogation of the original common law doctrine. The essential evil of the "right-of-control" test is that it is a corruption of a common law doctrine originally established to promote social responsibility and that, as it is being currently applied, is has served only to foster social irresponsibility, statutory evasion and unwarranted penalties.

CONCLUSION: AN EFFECTIVE SOLUTION

The description of the "right-of-control" test in action, as hereinabove described, cannot be characterized as an exaggeration, in view of the record. It is indeed unfortunate that the invidious consequences resulting from its manifold applications have not been apparent to those to whom has been delegated the responsibility of administering the labor and social laws of our generation. It may well be that one of the causes of the apparently universal official myopia has been the failure to realize that social and labor legislation fails in its purpose, unless it is so administered and interpreted that the

social "mischief" at which the legislation is aimed, and the remedies offered, are applied to all of those who are intended to be aided.[78] In this connection, it should be regarded as an axiom, that in administering such laws legalistic devices to escape statutory obligations should be discouraged.

The need for a solution of the problem discussed in this article has been recognized in many quarters. Various remedies have been proposed. For example, it has been suggested that a new definition of independent contractorship be submitted to Congress and state legislatures which will effectuate the "economic reality" test discussed by the U.S. Supreme Court.[79] Others have suggested legislative enactments incorporating the so-called "integral function" theory.[80] The difficulty with suggestions of this kind is obvious. The problem of procuring legislative amendments modifying the numerous federal and state laws such as are listed in footnote 1 of this article presents practical obstacles which at present appear to be difficult to overcome. Nevertheless, the problem is far from insoluble. It is here suggested that no vast program of legislative amendment need be undertaken to extend the benefits of this nation's socio-economic legislation to all those to whom such legislation should morally, ethically and legally apply.

A relatively simple solution which promises vast social benefits deals with the fundamental process of statutory interpretation. We are confronted with a paradox. It is obvious that the most effective, available formula for social progress in administering the socio-economic laws of this nation is a reversion to the common law concept of independent contractorship, formulated by American and English jurists a century ago. Their "independent calling" test for independent contractorship of the past affords the most effective formula for the future.

[78] "It is true, I think, today in every department of the law that the social value of a rule has become a test of growing power and importance. This thought is powerfully driven home to the lawyers of this country in the writings of Dean Pound. Perhaps the most significant advance in the modern science of law is the change from the analytical to the functional attitude. The emphasis has changed from the content of the precept and the existence of the remedy to the effect of the precept in action and the availability and efficiency of the remedy to attain the ends for which the precept was devised." Cardozo, The Nature of The Judicial Process, at 73 (1921).

[79] See N.L.R.B. v. Hearst Publications, Inc., 322 U.S. 111 (1944); United States v. Silk, 331 U.S. 704 (1947).

[80] E.g., see Teple, op. cit. supra note 8, at 178.

November 1, 1963

Mr. Warren Rustand
Presidents Speaker Bureau
Associated Students
University of Arizona

Dear Mr. Rustand:

In reply to your letter of October 25, 1963, I regret to advise you that it is impossible for me to schedule any speaking engagements at this time because of the pending court cases.

I appreciate your asking me and am sorry that it is not possible for me to make even tentative commitments as of this time.

Very truly yours,

James R. Hoffa
General President

JRH/alb

THE UNIVERSITY OF ARIZONA

TUCSON

ASSOCIATED STUDENTS

October 25, 1963

Mr. James Hoffa
25 Louisiana Avenue N.W.
Washington 1, D.C.

Dear Mr. Hoffa:

The Associated Students of the University of Arizona are currently scheduling their speakers program for the school year 1963-1964. We hope to engage speakers who can most capably express several viewpoints. We feel that if we can get such speakers, it will be of inestimable value to the students of the University.

Enrollment at the University this fall is approximately 15,000 students. Naturally, your presentation would be carried by the University paper, by the local papers and television stations (reviewed) and, we believe, by other papers and radio stations throughout the state. This would not limit your presentation to only the students of the University of Arizona, but would benefit the entire state.

We would be grateful if you would inform us as to your current schedule for the coming months, including dates and places. This would enable us to explore all possibilities of scheduling for your appearance.

Thank you for your time and consideration.

Sincerely yours,

Warren Rustand

Warren Rustand
Presidents Speaker Bureau
Associated Students
University of Arizona

ADMINISTRATIVE FILE
Arlitt, J. L.
X
X

August 11, 1959

Mr. J. L. Arlitt
2714 Guadelupe Street
Austin, Texas

Dear Mr. Arlitt:

Your letter of July 28, addressed to Mr. Hoffa has been referred to me for reply.

Since neither this union nor any trust fund in which it has an interest has any money available for the purchase of judgments of the type that you described, we cannot, of course, accommodate you.

Very truly yours,

HJG:jl:DP

H. J. Gibbons
Executive Assistant to
the General President

August 11, 1959

Mr. J. L. Arlitt
2714 Guadalupe Street
Austin, Texas

Dear Mr. Arlitt:

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Very truly yours,

M. J. Gibbons
Executive Assistant to
the General President

MJG:jl:DP

J. L. Arlitt
2716 Guadalupe Street
Austin, Texas

July 28, 1959

Hon. James R. Hoffa
President, CIO
Washington, D. C.

Dear Mr. Hoffa:

Your name was supplied by a Kansas City business organization.

Have you clients who might be interested in buying the large Missouri judgment shown on attached resume, which I can close out for $75,000, payable $45,000 cash and remainder in 4 annual instalments, on which basis the potential recovery is over 500%?

I wish to sell before reentering hospital for further eye cataract surgery. No deal will be made to place this judgment for collection on contingent fee basis.

I question whether anyone in the Mingo area has either money or initiative to buy this judgment.

Glad to send you additional data.

Sincerely,

J. L. Arlitt

Enc.

July 28, 1959

33,786 Acres MIN O MUNICIPAL DRAINAGE DISTRICT OF STODDARD AND WAYNE COUNTIES, SOUTHEASTERN MISSOURI, covered by a Missouri Court Judgment of $367,000, on which Accrued Interest and Principal combined now exceed $500,000. THIS JUDGMENT IS A TAX LIEN AGAINST THE ENTIRE ACREAGE. Judgment is recorded at Bloomfield, Missouri, Circuit Court, Book 19, Page 279, copy of which is available to you upon request. THE ACCRUED INTEREST IS EXEMPT FROM FEDERAL INCOME TAXES (See Federal Maloney Act).

This Judgment was obtained in Stoddard County, Missouri, to revive (extend time) on two Federal Court Judgments obtained by a Texan on unpaid Mingo Drainage District bonds/coupons. Judgment was obtained in August, 1952 and remains "alive" until August, 1962, however may be revived beyond the latter date upon payment of a nominal fee. Of the 33,786 Acres, the Federal Government occupies some 22,000-odd acres for a Wildlife Reserve (Ducks, Skunks, etc.) on which over 240,000 Rice was produced in one year, on which basis for the ensuing 4 years would have made a Total of Rice Production and Sales exceed $200,000, none of which was paid on this judgment.

The Judgment Holder is a citizen of and taxpayer in Missouri, and regards the local authorities as representing "a closed corporation", which ignores payment of this Judgment Debt. Mingo Drainage District was organized in 1918 for Fifty (50) years, until 1968, but cannot be dissolved while unpaid obligations are outstanding. Original bond issue and legality of organization of Mingo Drainage District were approved by the then nationally-known municipal bond law firm of Wood and Oakley, Chicago, typed copy of whose opinion being available to you on request.

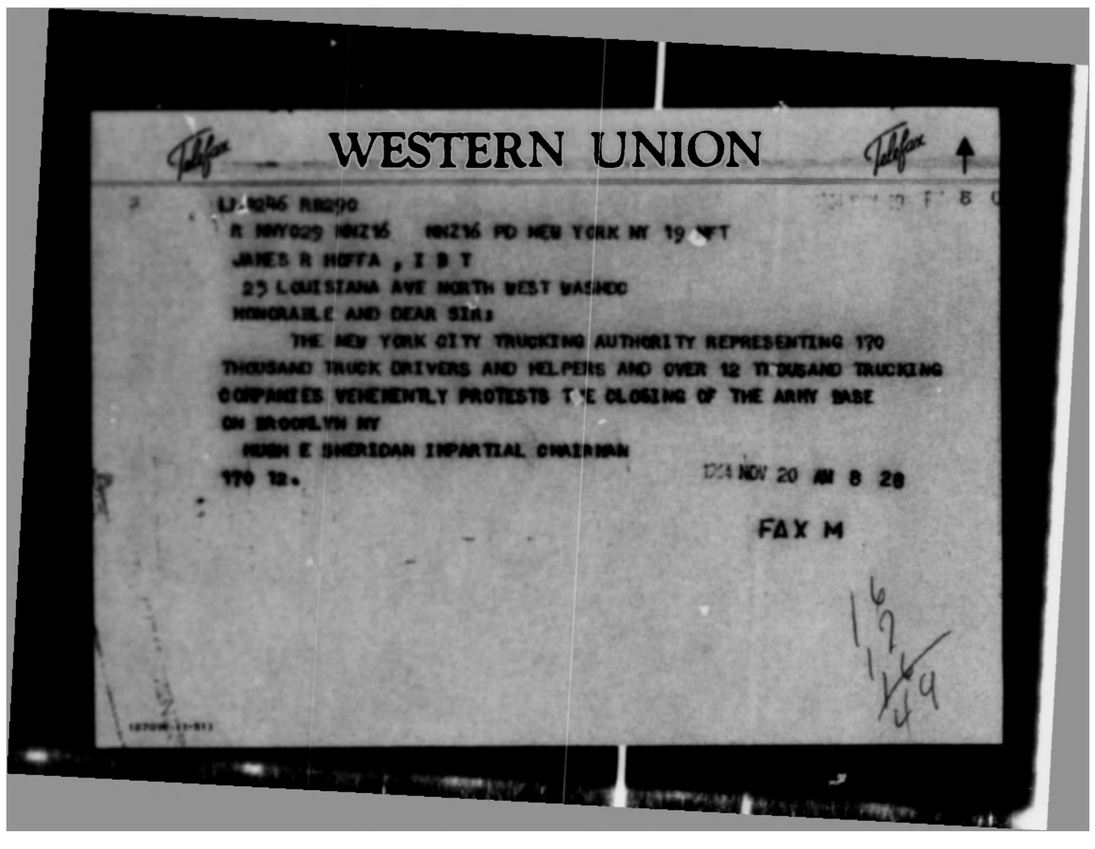
There is ample legal authority in Missouri statutes and court decisions for levying additional taxes (assessed benefits) with which to pay this Judgment and Accrued Interest. See the important Missouri Supreme Court decision of ex rel McCee, 220 Southwestern Reporter, 2nd series, 6. which states that additional taxes (assessed benefits) may be levied to pay defaulted Dunklin County, Missouri, Drainage District bonds/coupons, a situation similar to this Mingo Drainage District default. A frequent procedure for collection is by petition to Federal or State EQUITY COURT in an action "for money had and received".

With this Judgment will be delivered $165,000 past due bonds plus many coupons, though only $125,000 bonds belong to this Judgment, while the $40,000 go gratis to buy of this Judgment/ Bonds/coupons are SWAPPABLE for oil/gas leases (perhaps with a little cash) in the Mingo Drainage area. Several oilwell holes have been drilled in Stoddard County and vicinity (see "Subsurface Geology of Mississippi Embayment of Southeast Missouri", published at $3 by State Geological Survey, Rolla, Missouri), WITH MAPS/PLATS.

The 11,000-odd acres privately-owned land are of higher terrain and are suitable for:

HOTELS	CABINS	FILLING STATIONS
ORCHARDS	GARAGES	HAMBURGER STANDS
ETC.	ETC.	

See St. Louis Post-Dispatch, colored section, July 17, 1955, containing aerial view of Mingo District, and white section of same newspaper, page 32D, June 12, 1955, the latter showing the Government "take-over" at nominal prices, of which latter photostat is available on your request.



Telefax — WESTERN UNION — Telefax

LJ 1246 RB290
R NWY029 NNZ16 NNZ16 PD NEW YORK NY 19 NFT
JAMES R HOFFA , I B T
25 LOUISIANA AVE NORTH WEST WASHDC
HONORABLE AND DEAR SIR:
THE NEW YORK CITY TRUCKING AUTHORITY REPRESENTING 170
THOUSAND TRUCK DRIVERS AND HELPERS AND OVER 12 THOUSAND TRUCKING
COMPANIES VEHEMENTLY PROTESTS THE CLOSING OF THE ARMY BASE
ON BROOKLYN NY
HUGH E SHERIDAN IMPARTIAL CHAIRMAN
170 12.

1214 NOV 20 AM 8 28

FAX M

(270M-11-61)

ADMINISTRATIVE FILE

Army Dpt.

x

x Sheridan, Hugh E.

Office of the General President

To: Mr. David Previant

From: Mr. Harold J. Gibbons

Re: Clifford A. Arnold

ADMINISTRATIVE FILE
Arnold, Clifford A.
X
-X

March 3, 1960
DATE

Please prepare an answer to the attached communication for President Hoffa.

H. J. Gibbons,
Executive Assistant
to the
General President

HJG/js
enc.

ADMINISTRATIVE FILE
Arrington, John S.
X
X

December 22, 1959

Mr. John S. Arrington
244 South Olive Street
Los Angeles 12, Calif.

Dear Mr. Arrington:

I am sorry to be delayed in returning the enclosed manuscript to you. We have had it carefully studied by a number of our associates, and while it is very well written, it is felt that it would be better not to assume publication of this article on our part.

Please accept our thanks for your interest and obvious understanding of the issues and problems in which we have been involved over the past several years.

Sincerely yours,

H. J. Gibbons
Executive Assistant to
the General President

HJG/mr
Encl.

December 17, 1959

MEMORANDUM

TO : Herold J. Gibbons

FROM: Jake McCarthy

Some time ago you sent us the attached communication for our opinion as to this proposal. The proposal was that this article be published in pamphlet form under President Hoffa's by-line.

Jim Herding and I have both studied it carefully and have come to the same conclusion.

1. It is not suitable for President Hoffa's by-line.

2. It is still a pretty good article in terms of references and analyses of the situation, but we feel that it is too defensive and self-serving for President Hoffa to take personal credit for its authorship.

3. While it is very good, it is not so good that it would seem to carry its own weight as a separate pamphlet or article.

4. Since the author asks us to mail it back if President Hoffa does not wish to purchase it for his by-line, we would recommend that it be returned with the proposed attached letter. We have written many of these same things in our magazine and other places, and we can see no need to pay for this.

Office of the General President

To: Jake McCarthy

From: Harold J. Gibbons

Re: John S. Arrington communication

ADMINISTRATIVE FILE
Arrington, John S.
X
X September 14, 1959
DATE

Please read the attached and give me your opinion as to its usefulness for the Magazine or a Pamphlet.

H. J. Gibbons

HJG/js

MR. JAMES R. HOFFA,
25 Louisiana avenue, N.W.
Washington--1--D.C.

DEAR SIR:

I was a close friend, until he died April 3, 1958, of Ben Morris of Hollywood who was a long time friend of Paul Dorfman. Together we watched the Teamster drama unfold and had many interesting discussions about it.

Ben and I agreed that your enemies, inside and outside labor, were taking dead aim on you. Sentimentally of course we both were rooting for you to triumph.

My friendship with Ben and our discussions furnish the background inspiration for the enclosed article of which I am modestly proud as it is true, factual and can be documented as you know. While they are charging the Teamsters with "gangsterism", the facts of the situation have never been pulled together before and published.

In my opinion this article should be printed in pamphlet form under your by-line and a copy of it should be placed in the hands of every union man in the United States, but particularly those of members of your union. It would be enlightening to all union man to know the facts and truth regarding the enemies of labor.

Moreover, coming from you, it would be a counter-weight to the billions of words written against you as a result of the McClellan committee hearings. As you know the press, the magazines, TV and radio have been devoted to the business of painting big business as "honorable, fair and selfless" people interested only in public welfare and never has there been any intimation that Big Business for years employed and used hoods to stifle the legitimate aims of union labor.

I think the publication of this article under your by-line would place an entirely different face on the situation and partially, if not entirely, would re-direct the fire coming at you to those who actually are responsible for the so-called gangster situation as it exists everywhere in the United States today.

Under your by-line, the article would have status and, most importantly, force and conviction. And, further, it would be virtually impossible for the prostitute press and allied media to ignore it.

(2)

It is the old political and propagandic technique of turning the knife back into the belly of the enemy.

Your first reaction may be that publishing it under your name would stir up the hornets, but you know that if they get a chance they'll give it to you anyway and never will be on your ball club so there's nothing to lose except and a chance to gain.

Tying the gangster tin-can to the goat of big business and high finance where it properly belongs should be done and by you.

If you agree, I would be most happy to see it done. Therefore in event you find that the enclosure has merit and will serve a practical purpose by its dissemination through the ranks of labor, I would like to be paid for it as the "laborer is worthy of his hire."

In event you disagree, please mail it back and no harm has been done.

Sincerely and respectfully,

John S. Arrington

John S. Arrington
344 South Olive Street
Los Angeles-12-California.
Madison 8-2964

ADMINISTRATIVE FILE
✓ Arrow, Incorporated
X Colosimo, E. Thomas
X

.1.

May 22, 1962

Mr. E. Thomas Colosimo, Exec. Dir.
Arrow, Inc.
1166 19th Street, N. W.
Washington 6, D. C.

Dear Mr. Colosimo:

I have your letter and enclosures of May 16th, and as much as we are in sympathy with this program, I regret that at this time we are unable to enter into this project.

Thank you for writing.

Very truly yours,

James R. Hoffa
General President

JRH/yk
Enc.

ARROW, INC.

1166 - 19TH STREET, N. W.
WASHINGTON 6, D. C.
FEDERAL 8-4085

FOUNDED 1949

An organization working on behalf of American Indian – Health • Education • Housing • Welfare • Development • Crafts

May 16, 1962

Mr. James B. Hoffa, President
International Brotherhood of Teamsters
Chauffers, Warehousemen and Helpers Union
25 Louisiana Avenue, N. W.
Washington, D. C.

Dear Mr. Hoffa:

Recently, the Burmese Government turned down $12 million granta from two American Foundations.

This is of concern to us for three reasons:

1. The money was neither apprecisted nor evidently needed enough--they had rather have money on a govarnment-to-government basis--s political baais--than a people-to-people grant.

2. The American Indian is living in conditions as bad or even worse than those in Burma--and they are right next door to all of us.

3. The projects for which these foundstions gave $12 million is almost the same as those things which we asked foundations for the American Indian a year ago--and received nothing.

Here in a nation which boasts the world's highest living standards, close to half a million people live in housing conditions comparable to those in the most under-developed countries which we read about and react to with shock. While the standards of less-developed countries arouse Americans to pour generously into improvement aid, the sub-human living standards of the American Indian exact little more than spathy.

Arrow, an organisation which was established in 1949 for tha health, aducation and welfare of the American Indian is concerned primarily with the young people who are forced to live in primitive surrounds in a country of plenty--have little hope for the future.

Of tha 500,000 American Indians in the United States, more than half of them are under 21. Their life expactancy is eleven years shorter than that of the average American.

Thare are more than fifty thousand American Indian boys batween the age of 8 and 16. Only one out of every 12 of thaae boys is being reached by any youth program. If the Indian is to take his proper place in the larger fabric of American democracy--adapting where he cannot bring about changes, and changing what is inequitable--he must have sufficient training and knowledge to participate in it.

We ara enclosing a proposai on an Indian youth program, which we shouid like the Teamsters Union to consider:

This program encompasses:

1.	Further Development of Local Indian Youth Organizations...	New York State	$1500.00
		Plains States	1500.00
		Northwest	1500.00
		Southwest	1500.00
		Alaska	1000.00
			$7000.00
2.	Regional Tribal Leadership Training Work-shops	New York State	$1500.00
		Plains States	2500.00
		Northwest	2500.00
		Southwest	2500.00
		Alaska	1000.00
			$10000.00

3.	Development Assistance Program to support rehabilitation of individuel needy cases	3000.00
4.	Participation of American Indian Youth in the Young Adult Council--National Social Welfare Association and World Assembly of Youth of the U.N. ...	3000.00
5.	Project Director's Salary and travel expenses	9000.00
6.	Arrow overhead, supervision, and management costs	3000.00
	Total Annual Budget	$35000.00

The typical young American Indian is under 20 years of age, and as the Teamster drivers of the trucks driving through Indian areas knows, he lives on reservation land that is economically destitute. His poverty results in health problems so severe that he cannot expect to live much beyond age forty. Because of conflicting customs and values between his reservation life and his life in the larger society he is handicapped at home and in school.

But he is more. He is eager for self-development and is seeking opportunities for learning and good citizenship. He is a potentiel leader with desires and aspirations matching the members of your Union.

We believe that you and the Teamsters Union will be intareated to sponsor all or part of this youth program.

Any consideration you give this project proposal will be greatly appreciated.

Sincerely,

E. Thomas Colosimo

E. Thomas Colosimo
Executive Director

LIST OF ATTACHMENTS

a. Complete copy of the National Program for Indian Youth of America.

b. Copies of a few letters commending Arrow for its efforts in this field.

c. Copy of tax exempt letter from Internal Revenue Service.

d. Copy of reprint from New York Times editorial page on Burma's rejection of Foundation grants.

e. Reprint from Congressional Record on Arrow housing conference.

f. Copy of press release on need for financial assistance and lack of Foundation help.